WAR FOOD ADMINISTRATION
WASHINGTON, D. C.

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HANDBOOK ON THE NATION'S WAR FOOD PROGRAM

Prepared under the direction of the Solicitor
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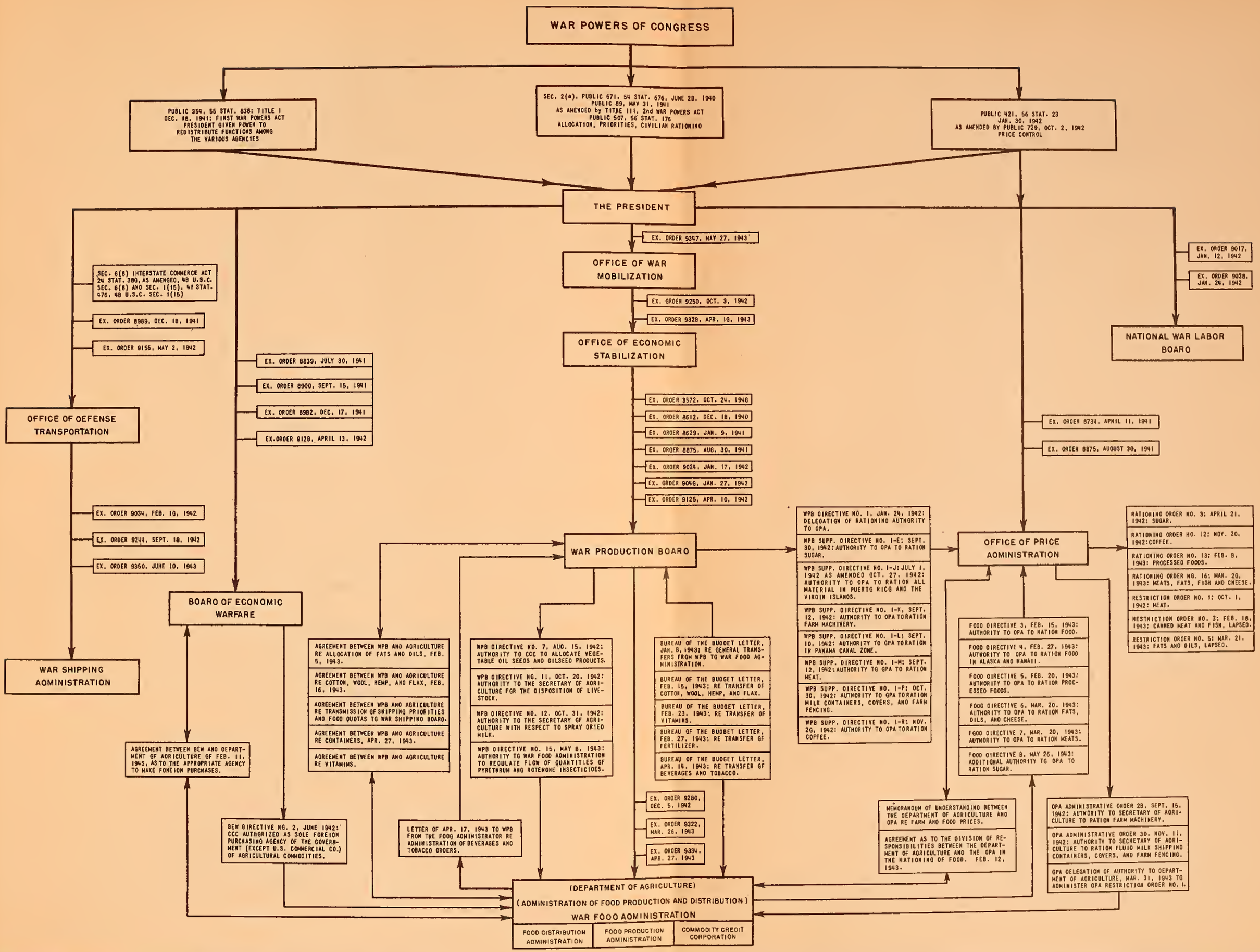
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WAR FOOD ADMINISTRATION
FOOD DISTRIBUTION ADMINISTRATION
FOOD PRODUCTION ADMINISTRATION
COMMODITY CREDIT CORPORATION

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THE NATION'S WAR FOOD PROGRAM

I

INTRODUCTION

In February of 1941 the Department of Agriculture pointed out the lack of a central authority in the United States for planning and directing the production and trade in food and urged that there should be authority for the coordination of the domestic food program with the direction of food exports and imports and for the coordination of the food procurement and shipping activities of the United States, the United Kingdom, Russia, and other friendly nations. The Department endeavored to have powers conferred upon itself to deal effectively with the food problems arising from our participation in the war effort. The first material, though wholly inadequate, as was later proved, result of the efforts of the Department was the designation in June of 1942, by the Chairman of the War Production Board, of a Food Requirements Committee within his organization. The Secretary of Agriculture was named Chairman and the Committee was authorized to direct the production and distribution of food, subject to the overall direction and approval of the Chairman of the War Production Board.

The food situation became increasingly significant, and on December 5, 1942, the President by Executive Order 9280 (7 F. R. 10179) transferred to the Secretary of Agriculture full responsibility for and control over the Nation's food program. The powers, functions and duties conferred upon the Secretary by this Executive Order were redelegated by Executive Order 9322 on March 26, 1943 (8 F. R. 3807; March 30, 1943) to a Food Administrator to be named by the President. By Executive Order 9334 (8 F. R. 5423; April 27, 1943) "The Food Production Administration (except the Farm Credit Administration), the Food Distribution Administration, the Commodity Credit Corporation, and the Extension Service, together with all their powers, functions, and duties. . . . [were] consolidated within the Department of Agriculture into a War Food Administration, to be administered under the direction and supervision of a War Food Administrator. The Administrator shall be appointed by the President and shall be directly responsible to him." (Sec. 1, Executive Order 9334). Sec. 4 of the Executive Order provides as follows:

> "In addition to the powers and authority granted by this Order, and in order to carry out its purposes, the Secretary of Agriculture and the War Food Administrator, to the extent necessary to enable them to perform their respective duties and functions, shall each have authority to exercise any and all of the powers vested in the other by statute or otherwise; and the exercise of any such power by either of them shall be deemed to be authorized and in accordance with this Order. . ."

(See attached hereto Executive Orders Nos. 9280, 9322, and 9334, and a copy of the Solicitor's memorandum of April 24, 1943 to the Secretary of Agriculture and the War Food Administrator analyzing in general terms the provisions of Executive Order 9334 as Exhibits A, B, C, and D respectively.)

"Food" is defined in Executive Order 9280 to mean:

> "All commodities and products, simple, mixed, or compound, or complements to such commodities or products that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the products thereof in a vendible form for immediate human or animal consumption, but exclusive of such commodities and . . . products as the Secretary shall determine . . . [and including] all starches, sugars, vegetable and vegetable fats and oils, cotton, tobacco, wool, hemp, flax fiber, and such other agricultural commodities and products as the President may designate." (Sec. 10, Executive Order 9280).

The extent of the War Food Administrator's authority under the Executive Orders may be said to depend upon the possible end use of the commodity involved. For the purpose of facilitating an analysis of the War Food Administrator's authority, commodities encompassed in the above definition of "Food" may be broadly classified as follows:

1. "Food" subject to be used only for human and animal consumption.
2. "Food" which can be used both for human and animal consumption and for industrial purposes.
3. "Food" defined as such by Executive Order 9280 yet subject to be used only for industrial purposes.

The source, the extent, and the nature of the authority of the War Food Administrator with respect to each general category of "food" and the way in which that authority is adjusted or remains to be adjusted with related functions continuing within the jurisdictions of the War Production Board, the Board of Economic Warfare and the Office of Price Administration is considered. The manner in which materials other than "food" and facilities used in the production and distribution of "food" are directed into the food program is also analyzed. Problems having to do with the civilian rationing of "foods", the price fixing of farm and food commodities, and the importation of "foods" purchased abroad are treated separately.

II

THE JURISDICTION OF THE WAR FOOD ADMINISTRATOR IN GENERAL TERMS

A. THE PRODUCTION OF "FOOD": In general, the War Food Administrator is responsible for and has complete control over the production of "food" irrespective of the use to which it may be ultimately directed. In exercising such authority the War Food Administrator shall initially

> "1:a. Ascertain and determine the direct and indirect military, other governmental, civilian, and foreign requirements for food, both for human and animal consumption and for industrial uses." (Executive Order 9280).

A Director of Food Distribution appointed by the Secretary was authorized and directed by the Secretary, as his personal representative and as the personal representative of the Food Advisory Committee, to assemble the food requirements of all claimant agencies for all purposes (see Secretary's Memorandum No. 1068, January 26, 1942). In ascertaining the total requirements for food for all purposes, the War Food Administrator or his representative is to accept as authoritative the determinations of the Chairman of the War Production Board concerning estimates of food requirements for industrial needs (see Memorandum 1055, December 16, 1942). This function was assigned by the Director of Food Distribution to the Requirements and Allocations Control branch of the Food Distribution Administration (see Secretary's Memorandum 1054, December 10, 1942. Director's Memorandum No. 2, January 13, 1943, Exhibit E. sets out in detail the procedure by which requirements of all claimant agencies are assembled.) These requirements are correlated with estimates of visible and prospective supplies of food, as determined by the several Commodities Branches of the Food Distribution Administration and submitted by them to the Requirements and Allocations Control branch. Trial balance sheets showing estimates of food supplies with adjusted claims of all agencies entered against them are prepared by the staff of that branch for the Director of Food Distribution, who thereupon consults with the Director of Food Production for the purpose of adjusting requirements to production plans and programs.

Sec. 1.b. of Executive Order 9280 provides that the Secretary shall:

> "Formulate and carry out a program designed to furnish a supply of food adequate to meet such requirements. . . "

The requirements referred to are those described in Sec. 1.a. of the Executive Order which are the total requirements of all claimant agencies "for food, both for human and animal consumption and for industrial uses."

The responsibility for all departmental programs relating primarily to food production was delegated to the Director of Food Production by the Secretary in his Memorandum No. 1054. Such related activities include among other things the financing of food production through loans to farmers; establishing marketing quotas; assisting farm tenants, farm laborers, or sharecroppers to acquire economic family-size farms through loans; conserving natural resources and increasing farm productivity; developing crop insurance programs, etc. The allocation of plant foods (fertilizer) and feed for poultry and livestock, and the rationing of farm machinery, are recognized as essentially food production problems and specific delegations of authority with regard thereto have been made by the Secretary to the Food Production Administration. (Both problems are subsequently discussed in detail in connection with the related topics - Animal and Vegetable Fats and Oils and Civilian Rationing.)

The organization of the Food Production Administration to carry out the War Food Administrator's responsibility for securing maximum wartime production is set out in detail in Food Production Memorandum No. 2, January 22, 1943. (There is attached hereto as Exhibit F a detailed analysis of all Food Production Orders issued as of June 15, 1943.)

B. THE DISTRIBUTION OF "FOOD":

1. General Division of authority between the War Production Board and the War Food Admistration: It is not until the War Food Administrator's authority

to direct distribution is considered that the end use of the commodity involved becomes significant. "Food" for human and animal consumption is the responsibility of the War Food Administrator until it reaches the ultimate consumer. He shall:

> "1.c. Assign food priorities and make allocations of food for human and animal consumption to governmental agencies and for private account, for direct and indirect military, other governmental, civilian and foreign needs." (Executive Order 9280).

Those agricultural commodities allocated to industrial purposes are, generally speaking, the responsibility of the War Production Board beyond the sphere of production. Sec. 3 of Executive Order 9280 provides that:

> "Whenever the available supply of any food is insufficient to meet both food and industrial needs, the Chairman of the War Production Board and the Secretary shall jointly determine the division to be made of the available supply of such food . . ."

Thereafter the War Food Administrator shall exercise "the power conferred upon the President by Title III of the Second War Powers Act, 1942, insofar as it relates to priorities and allocations of (1) all food for human or animal consumption or for other use in connection with the food program, but excluding that food which has been determined to be available to the War Production Board for industrial purposes, pursuant to Section 3 (quoted above) of this Executive Order. . ." (Sec. 8.b. Executive Order 9280).

Programs designed to effectuate a proper and equitable distribution of all "foods" falling within the jurisdiction of the War Food Administration originate within the Food Distribution Administration. (see Secretary's Memorandum No. 1054).

Animal and vegetable fats and oils, cotton, wool, hemp, flax, and molasses are among the "foods", as defined by Section 10 of the Executive Order, which can be used in some cases both for human and animal consumption and for industrial purposes and in other instances only for industrial purposes. As will be seen, a division of responsibility between the War Production Board and the War Food Administration with respect to the distribution of these commodities has, for the most part, been worked out in some detail. Special jurisdictional problems arising with respect to each of these commodities warrant individual and detailed treatment.

2. Distribution of "Food" by Means of Allocations. The overall allocations of quantities of "foods" to different claimant agencies are formally made by the War Food Administrator upon recommendations of the Director of Food Distribution. These recommendations are based upon requirements of claimant agencies adjusted in the light of available and prospective supplies.

The movement of "food" at the source of supply in order to meet these basic allocations is controlled by supplementary orders signed by the Director of Food Distribution fixing quotas, naming specific commodities subject to the Administrator's allocations, designating base periods to be used in computing quotas

and other related matter. As of June 15, 1943, fifteen orders requiring producers to set aside designated portions of their supply for governmental use are in effect. The commodities subject to be set aside under these orders are spray dried milk, butter, fresh citrus fruit, milled rice, American cheese, raisins, dried apples, apricots, peaches, pears, plums, canned fruits and vegetables, canned sardines and mackerel, meats, dehydrated vegetables, cold storage shell eggs, spray process dried eggs, salmon, herring, shrimp, tuna, yellowtail, and bonito, beans, peas, and split peas.

By means of other orders, the distribution of commodities within pre-determined allocations is controlled by restricting the production and sale of the commodity except pursuant to designated contracts or for specified purposes. Citrus juices, except unconcentrated grapefruit juice, can be sold only on government contracts; the amount of milk solids to be used in frozen dairy foods is limited; cream having more than a 19 percent butter fat content can be sold only to hospitals, etc.; raisin variety grapes are required to be held for conversion into raisins; 50 percent of the lard output of Federally inspected packers is reserved for purchase by the Food Distribution Administration; all sales of domestic wool must be made to the Commodity Credit Corporation.

Still other orders tending to conserve what is an increasingly deficient supply of the commodities to meet all requirements, have been issued. For example, the sale of packaged chicory is restricted by Food Distribution Order No. 5; spice and tea packers are restricted in the purchases of spices and tea within quotas established by the Food Distribution Administration by Food Distribution Order Nos. 18 and 18.1; processors of cocoa beans are limited by Food Distribution Order No. 25 to 60 percent of the amount of cocoa beans previously processed by them; blenders and food manufacturers are limited in their purchases of molasses by Food Distribution Order No. 51; requirements for the shipment of plums in fresh form are provided by Food Distribution Order No. 55.

Specific allocations to dealers and manufacturers from the 1942 Burley tobacco crop to be made by the Food Distribution Administration were provided for by Food Distribution Order No. 4, issued by the Secretary on January 7, 1943.

Under Food Distribution Order No. 4.1, January 8, 1943, the Director of Food Distribution provided that manufacturers will be permitted to purchase 1942 Burley tobacco in an amount not to exceed 90 percent of their average purchases for 1939, 1940, and 1941. Dealers are authorized under the order to purchase for their own account an amount which will not exceed their average annual purchases during the three base years.

The War Food Administration announced on April 14, 1943 a program providing for control over the shipment of the remaining stock of Maine potatoes. It is the purpose of the program to enable government procurement agencies to obtain urgently needed supplies and to help provide growers with sufficient seed to meet increased 1943 goals. Authority for the action is contained in Food Distribution Order No. 49, as amended April 30, 1943. Under the order each shipper is required to obtain a permit before making any truck or rail shipment. To obtain a permit, the shipper must offer to sell to Federal agencies the entire quantity for which the permit is requested. That portion of the supply not needed by the Government will be released for commercial shipment. The order has since been amended to extend the restrictions therein contained to other areas producing potatoes, and to lift such of these restrictions as is warranted by changing circumstances in the potato production and distribution program.

By Food Distribution Orders Nos. 47 and 47.1, the Director of Food Distribution provided that during the three months period ending June 30, 1943, and during each subsequent three months period, no firm or individual may use in manufacturing other products more than 600 pounds or 120 percent of the quantity of honey so used by him during the corresponding three months period of 1941, which ever is greater.

See Exhibit G attached hereto for a list of the Food Distribution Orders involved and a brief statement of the context of each order. Orders controlling the distribution of fats and oils in one manner or other, and of livestock and meats will be dealt with specifically under the topics Animal and Vegetable Fats and Oils and Livestock and Meats respectively.

3. Distribution of "food" through Priorities: The movement of "food" is further controlled through the assignment of priority ratings to contracts for the purchase of "food", statutory authority for which is also found in Title III of the Second War Powers Act. 1/ In order to enable governmental agencies, such as the armed forces and Lend-Lease, to obtain food supplies as and when needed and to place the War Food Administration in a position to cause deliveries of food to essential civilian users to be made promptly where the time element is significant, Food Distribution Regulation No. 1 of March 6, 1943, as amended May 29, 1943, 8 F.R. 7213, transfers to the War Food Administration from the War Production Board authority to assign priority ratings to all "food" orders. (see copy of Food Distribution Regulation No. 1 attached hereto as Exhibit H). The regulations are administered by the Food Distribution Administration. The lowest priority rating available on a "food" order is F.R. 10 and all orders issued by governmental agencies, except orders issued for rationed and "set-aside" food, automatically are given that rating. Ratings on all other orders, including governmental orders for "set-aside" or rationed foods must be assigned by the Director of Food Distribution.

1/ The power to allocate material and to assign priorities to war contracts has been delegated by Congress to the President by a series of laws. Originally these powers were limited to the granting of priorities to Army and Navy contracts. However, the broad amendments affected by the Act of May 31, 1941, Public Law 89, (55 Stat. 236) and the Act of March 27, 1942, Public Law 507, in addition to granting allocations powers, extended the President's authority to assign priorities to include orders of all countries the defense of which the President might consider vital to the defense of the United States under the Lend-Lease Act, Public Law 11, (55 Stat. 31) and to other contracts, orders, subcontracts and suborders which he might deem appropriate to promote the defense of the United States.

The first government agency to exercise these priority powers was the Office of Production Management, to which, by Executive Order No. 8629, January 7, 1941, (7 F.R. 191), the President delegated his authority under the Act of June 28, 1940, Public Law 671, (54 Stat. 676). The Executive Order provided for a Division of Priorities within the Office of Production Management, and this Division administered the original priorities system.

Executive Order No. 8629 was amended by Executive Order No. 8875, August 28, 1941, (7 F.R. 4483) which created the Supply Priorities and Allocation Board. This Board was directed to assign priorities and make allocations in accordance with the enlarged powers of the President under the Act of May 31, 1941, Public Law 89.

Food Distribution Regulation No. 1, as amended, supersedes all War Production Board Priorities Regulations insofar as it refers to "food". "Food" is defined in the former regulation to mean "all commodities and products, simple, mixed or compounded, that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, and including all starches; sugars; tobacco; vegetables, fish, marine animal and animal fats and oils, whether edible or inedible, and including their by-products and residue (whether resulting from refining, distillation, saponification, pressing or settling); sulfated, sulfonated, and sulfurized fats and oils; tall oil; wool grease; soap; fatty acids; and glycerine."

As has been said, the assignment of priority ratings to purchase orders is a phase of the distribution program. The War Food Administrator's authority to direct distribution is restricted to "food" for human and animal consumption, and to non-foods allocated to the Administrator by the Chairman of the War Production Board under Section 2 of Executive Order 9280 for carrying out the food program. Any authority of the Administrator to control in this manner the distribution of those portions of the "food" supply serving industrial uses, in view of the terms of the Executive Order reserving that function to the War Production Board, must necessarily be found outside the Executive Order.

The agreement of February 5, 1943, between the War Production Board and the Department of Agriculture gave to the Department general allocation authority over all animal and vegetable fats and oils. For all practical purposes this would appear to include the authority to assign priority ratings to fats and oils orders for industrial uses.

"Food" as defined in the regulations does not include cotton, wool, hemp, and flax fibers, although these items are included in the definition of "food" in Sec. 10 of Executive Order 9280. Since these commodities are subject to be used industrially, some clarification of the proper division of authority to control their distribution as between the Department of Agriculture and the War Production Board was requested. It was agreed between the two agencies that the "War Production Board will have full responsibility for and control over the allocation of cotton, wool, flax and hemp to industrial

1/ (Continued)
These broad priorities-allocations powers were transferred to the War Production Board by Executive Order No. 9024, January 16, 1942 (7 F.R. 329), with additional powers being delegated by Executive Order No. 9040, January 24, 1942 (7 F.R. 527) and Executive Order No. 9125, April 7, 1942 (7 F.R. 2719). Until the general centralization of food priorities-allocations powers in the Secretary of Agriculture by Executive Order 9280, December 5, 1942 (7 F.R. 10179), the War Production Board has exercised exclusive authority in the priorities-allocations field. With the issuance of Executive Order 9280, however, the power to assign priorities and make allocations of food was transferred to the Secretary of Agriculture to be administered by the Food Production and Food Distribution Administrations. Subsequently, Executive Order 9322, March 26, 1943 (8 F.R. 3807) transferred these powers of the Secretary, and the two administrations, to the Administrator of the Food Production and Distribution Administration. By Executive Order No. 9334, April 19, 1943 (8 F.R. 5423) these powers were transferred to the Food Administrator of the War Food Administration.

users, [including]. . . complete control over the uses to which these fibers may be put." This would of necessity encompass the authority to assign priority ratings to orders for such products.

The priority Regulations issued by the Secretary were not made applicable to orders for non-foods to be used in the production and distribution of "food." Consequently, contracts for the purchase of such non-foods will be assigned priorities according to the Priority Regulations issued by the War Production Board. The War Production Board by Priorities Regulation 19, as amended June 8, 1943 (8 F.R. 7814) regulates the acquisition of farm supplies by farmers and the maintenance of farm supply stock by dealers. (see further discussion under Non-Foods Essential to the Food Program)

On January 26, 1943, February 14, 1943, and March 6, 1943, the Secretary delegated authority to the Food Distribution Administration, the Food Production Administration, and the Commodity Credit Corporation to approve applications for priority assistance and to recommend priority ratings to be assigned by the War Production Board to contracts for non-food materials which are to be used in connection with their respective programs. (See attached as Exhibit I Administrator's Memorandum No 4 appointing Mr. Lee Marshall as Deputy Administrator in charge of the Office of Materials and Supplies and for a discussion thereof see the topic Non-Foods Essential to the Food Program.)

4. Conclusion: The Nation's program for the rationing of "food" to the civilian consumers is reserved for analysis in connection with the broader problem of the inter-related jurisdictions of the Office of Price Administration and the War Food Administration.

As has heretofore been said, "foods" which can be used both for human and animal consumption and for industrial purposes and those fibers classified as "food" by Executive Order 9280 create peculiar jurisdictional problems insofar as the authority to direct their distribution is concerned. Suitable administrative arrangements between the War Production Board and the War Food Administration have been arrived at in most instances. There follows an analysis of those arrangements. In some cases, a proper division of jurisdiction has not as yet been made. Attention is directed thereto.

III

VEGETABLE AND ANIMAL FATS AND OILS

All animal and vegetable fats and oils are specifically included within the definition of "Food" in Section 10 of Executive Order 9280. Most of these fats and oils may be used either for human and animal consumption or for industrial purposes. About 80 percent of the supply serves ultimately as a source of nutrition in the diet of humans and animals. The remaining 20 percent is devoted to industrial uses.

A. WAR PRODUCTION BOARD CONTROL OVER FATS AND OILS PRIOR TO EXECUTIVE ORDER 9280.

The War Production Board under its general authority to direct the distribution of war material (see Executive Orders Nos. 9024, 9040, and 9125) issued 13 orders directly designed to conserve the supply and restrict the use, processing and delivery of vegetable and animal fats and oils. They are:

1. General Preference Order M-40: October 27, 1942:
No person shall use, process, deliver or accept delivery of sperm oil except as specifically authorized by the Director General for Operations upon application of the user. Sperm oil is used as a machine tool cutting fluid, as a petroleum additive, and in the production of textile, leathers, dyes and synthetic rubber. Production has declined with the curtailment of world whaling activities while the demand has increased as industrial production has expanded.

2. General Preference Order M-57: October 6, 1942:
No person shall use, process or consume more than 35 pounds of Tung oil per month, other than to press or refine, except as specifically authorized by the Director General of Operations. Tung oil is used in protective coatings for use in military and naval equipment, electrical insulation and for food container linings.

3. General Preference Order M-58: December 10, 1942:
No producer, refiner or distributor shall deliver or use glycerine except as authorized by the Director General of Operations. Glycerine, needed for explosives and other war material, can no longer be used in any anti-freeze product.

4. General Preference Order M-59: September 30, 1942:
No person shall use or consume Palm oil except in the manufacture of tin plate, terne plate, steel sheets, and black plate and to processes yielding required percentages of glycerine.

5. General Preference Order M-60 and Order M-60a: both September 30, 1942: The use or consumption by any person of Cocoanut oil, Babassu oil, Palm Kernel Oil and other high Lauric Acid oils in specified manner is prohibited and certain amounts of those oils are required to be set aside. These oils are used in the production of explosives, in synthetic rubber production and for other military uses.

6. General Preference Rating Order M-66: September 30, 1942:
No person shall deliver, use or accept delivery of cashew nut shell oils except as specifically authorized or to fill orders bearing a War Production Board preference rating of A-2 or better.

7. General Preference Rating Order M-71: January 7, 1943:
The delivery and the use of all raw, crude, refined and pressed fats and oils whether vegetable, animal or fish is restricted with regard to various products.

8. General Preference Rating Order M-77: October 6, 1942:
Up to and including October 31, 1942, no person shall use

process or consume rapeseed oil except as directed by the Director General of Operations.

9. Conservation Order M-193: November 9, 1942:
With certain exceptions no person shall saponify or hydrolyze any raw, crude or refined fats and fatty oils and greases in any process in which glycerine is produced, unless the amount of glycerine remaining in the product is less than 1 percent, etc.

10. General Preference Rating Order M-235: September 30, 1942:
With certain exceptions, no person shall use, consume, or process castor oil except as specifically authorized by the Director General of Operations.

11. General Preference Rating Order M-238: October 6, 1942:
Subject to certain reservations, no person shall use, process or consume oiticica oil except as authorized by the Director General of Operations.

12. General Preference Rating Order M-188: March 27, 1943:
No distributor or producer of petroleum sulfonates shall deliver, use or refine petroleum sulfonates except as specifically authorized by the War Production Board.

13. General Preference Rating Order M-258: March 27, 1943:
No producer or distributor shall use or deliver mineral oil polymers except as specifically authorized by the War Production Board.

These orders were administered by the Fats and Oils section of the Chemical Division and the Fats and Oils Unit of the Chemical Section of the General Commodities Division of the Office of Civilian Supply of the War Production Board.

B. JURISDICTIONAL ADJUSTMENTS BETWEEN WAR PRODUCTION BOARD AND WAR FOOD ADMINISTRATION AFTER EXECUTIVE ORDER 9280:

Due to the great interchangeability between industrial and edible uses of most fats and oils it was agreed between the War Production Board and the Department of Agriculture, for purposes of practical administration of the fats and oils program, that those sections of the War Production Board administering that program should be transferred in toto to the Department of Agriculture (see Report of Interdepartmental Transfer Committee, January 6, 1943). Accordingly, on January 8, 1943, the Assistant Director of the Bureau of the Budget ordered their transfer to the Department.

In order to implement this transfer, representatives of the two agencies agreed on February 5, 1943, that these orders administered by the Fats and Oils Sections of the War Production Board, with the exception of General Preference Rating Orders Nos. M-188 and M-258, should be reissued over the signature of the Secretary of Agriculture. (War Production Board Orders M-238, M-235, M-193, M-58, M-77, M-66, M-40, M-59, M-71, M-60 and M-60-a have since been reissued by the

Secretary as Food Distribution Orders Nos. 31 thru 39 and Orders Nos. 42, 43 and 46 respectively.2/ It was further agreed that periodic meetings would be held by officers of the Department of Agriculture with representatives of the War Production Board and other interested claimant agencies present for the purpose of allocating specific quantities of the available supply to edible uses on the one hand and industrial uses on the other. Allocations within industrial and edible uses of portions allocated to those uses are also to be made. All new fats and oils allocation orders, whether relating to edible or industrial uses, are to be issued over the signature of the Secretary of Agriculture. However, with respect to those orders regulating the flow of fats and oils to industrial uses it is required that prior to their submission for the Secretary's signature the Department of Agriculture should obtain the concurrence of the War Production Board.3/ (See as Exhibit J copy of agreement between the War Production Board and the Department of Agriculture with regard to the Fats and Oils program.)

C. THE FATS AND OILS PROGRAM SINCE EXECUTIVE ORDER 9280.

1. Authority of Commodity Credit Corporation under War Production Board Directive No. 7:

In order to analyze in detail the manner in which the distribution of fats and oils are presently controlled from within the War Food Administration it is necessary in the first instance to make some reference to the War Production Board Directive No. 7 of August 15, 1942, delegating authority to Commodity Credit Corporation to make allocations of vegetable oil seeds and oil seed products. The Directive defines "vegetable oil seeds" to include cottonseed, flaxseed, peanuts and soybeans, and "oil seed products" as crude oil, oil meal and linters derived from "vegetable oil seeds." The War Production Board reserved overall authority and Commodity Credit Corporation was bound by any past or future orders of the Board in any way regulating the distribution of these

2/ Closely related to the Fats and Oils Program is War Production Board Imports Order M-147, issued on September 30, 1942, which provides that on and after May 20, 1942 no person shall import cashew nuts into the United States except as specifically authorized by the Director General of Operations of the War Production Board. The fulfillment of requirements for the defense of the United States has created a shortage in the supply of cashew nut shell oil for defense, for private account and for export; hence the Order. The Order was not administered by any Section of the War Production Board transferred to Agriculture and no alteration has been made in the manner of its administration since Executive Orders Nos. 9280, 9322, and 9334. In view of the Administrator's authority to ascertain requirements and to provide for the production of vegetable oils under the Executive Orders and to make allocations of oils under the agreement of February 5, 1943, it would appear that policies relative to import requirements would necessarily have to be determined on the basis of information assembled by the Administrator. That interdepartmental organization administering programs having to do with the private and public purchase of commodities abroad and their importation into this country should, it would appear, be concerned with the administration of the present order. (The general subject of Foreign Purchase and Importations is dealt with some detail later in this memorandum).

3/ Section 4 of Executive Order 9024 provides that the Chairman of the War Production Board may exercise his authority over production and distribution of

products. Pursuant thereto Commodity Credit Corporation issued seven oil seed orders, which are as follows:

1. CCC Oil Seed Order No. 1, September 9, 1942, and amended December 12, 1942: Excess Peanuts: No person shall sell or deliver excess peanuts of the 1942 crop for any purpose other than for crushing.

2. CCC Oil Seed Order No. 2, September 30, 1942: The use of repurchased cottonseed oil, peanut oil and soybean oil from Commodity Credit Corporation is restricted to the manufacture of edible products.

3. CCC Oil Seed Order No. 3, October 17, 1942: Persons producing soybean meal and oil are restricted to designated areas within which they may purchase soybeans.

4. CCC Oil Seed Order No. 4, revised on January 2, 1943: No soybean oilmeal produced in processing plants outside designated areas shall be sold for shipment into such area after January 31, 1943.

5. CCC Oil Seed Order No. 5, December 9, 1942: No soybean oil meal shall be sold or delivered for shipment into the areas designated except soybean oilmeal produced in processing plants located within such area.

6. CCC Oil Seed Order 6, as amended January 2, 1943: The inventory which any person may maintain of cottonseed oilmeal or cake, soybean oil meal or cake, peanut oil meal or cake and linseed oil meal or cake is limited to designated quantities. Effective until February 28, 1943.

7. CCC Oil Seed Order 7, December 31, 1942: The purchase, sale and delivery of oilseed products for manufacture into Mixed Fertilizer for sale is restricted.

2. <u>Effect of Executive Order 9280 on Commodity Credit Corporation's authority under War Production Board Directive No. 7.</u>

Executive Order 9280 provides, in Section 14, that "all prior directives, rules, regulations, orders and similar instruments heretofore issued by any Federal agency which affect the subject matter of this Executive Order shall continue in full force and effect unless and until withdrawn or superseded by or under the direction of the Secretary of Agriculture." The Executive Order and the

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3/ Continued:
material through such officials or agencies as he shall determine." The agreement of February 5, 1943, between the War Production Board and the Department of Agriculture may be regarded as an exercise of that prerogative and as the basis of any departmental authority to make allocations of fats and oils to industrial uses.

agreement of February 5, 1943, between the War Production Board and the Department of Agriculture had the effect of nullifying War Production Board Directive No. 7 insofar as it reserved any overall authority in the Chairman of the War Production Board to regulate the flow of the commodities involved. Except that the concurrence of the War Production Board is required in the issuance of new orders making allocations to industrial uses, the authority of the War Food Administrator with respect to the production and the allocation of fats and oils to all purposes is plenary. However, the orders issued by Commodity Credit Corporation under mandate of Directive No. 7 remain in effect until actually "withdrawn or superseded by or under the direction" of the War Food Administrator.

3. Inderdepartmental Delegations of Authority since Executive Order 9280 to Effectuate the Fats and Oils Program and its Effect on Existing Authority:

a. Authority of the Food Distribution Administration:

The Secretary delegated his authority over the fats and oils program in the following manner:

The Fats and Oils Sections transferred from the War Production Board were assigned to the Food Distribution Administration by the Secretary's Memorandum No. 1054, Supp. 1, January 16, 1943. The Director of Food Distribution established a Fats and Oils Branch within the Administration and provided that "these commodities will be the responsibility of the Food Distribution Administration from the time they leave the production stage until they are allocated between food and non-food uses. Thereafter that part of the commodity going into food will continue with the Food Distribution Administration, the non-food allotment going to such other agency as may have responsibility therefor." (Director's Memorandum No. 2, January 13, 1943). This enunciation of the Food Distribution Administration's authority was approved by the Secretary.

Any authority of Commodity Credit Corporation to make future allocations of crude or refined cottonseed, soybean, peanut or flaxseed oil to edible purposes under War Production Board Directive No. 7 was withdrawn in favor of the Food Distribution Administration. Commodity Credit Corporation's authority to allocate that portion of those oils going into industrial uses was not impaired thereby. In accordance therewith, the Secretary on February 3, 1943, issued Food Distribution Order No. 14, restricting the sale of peanut crude oil to refiners under contract with Commodity Credit Corporation and requiring those refiners to refine, store and insure at least 25 percent of the crude oil received for the account of Commodity Credit Corporation unless directed otherwise by the Director of Food Distribution. It is estimated that at least 40,000,000 pounds of peanut oil will be produced during the remainder of the season and that Commodity Credit Corporation will acquire at least 10,000,000 pounds of peanut oil by means of this order. The amount acquired will be allocated to war requirements by the Food Distribution Administration. Food Distribution Order No. 14 was revoked on April 26, 1943, but the movement of peanut oil continues to be controlled by Food Distribution Order No. 29 effective April 16, 1943.

By Food Distribution Order No. 29, as amended, April 28, 1943, the Director of Food Distribution is authorized to control on a monthly allocation basis the movement of crude or refined peanut, cottonseed, soybean and corn oil. Three

types of movements of these oils will be allocated: From crusher to refiners; from refiners to margarine manufactureres; and from refiners to other shortening manufacturers.

b. Authority of Commodity Credit Corporation:

By the Secretary's Memorandum No. 1054, Supp. 2, January 22, 1943, Commodity Credit Corporation's jurisdiction in the fats and oils program was spelled out to include all programs "relating to the purchase, storage, transportation and crushing of vegetable oil-bearing materials." This extends the scope of Commodity Credit Corporation's authority under War Production Board Directive No. 7 to make allocations of cottonseeds, soybean, flaxseed, and peanuts to include control over the movement of all oil-bearing seeds. (As has been pointed out above, after the seed is crushed the oil going into edible products is the responsibility of the Food Distribution Administration. As will be seen, the meal produced as a result of the crushing falls within the jurisdiction of the Food Production Administration.)

In accordance with his Memorandum No. 1054, the Secretary on February 17, 1943, by means of Commodity Credit Corporation Order No. 3, authorized Commodity Credit Corporation to enforce restrictions on the purchases of soybeans. The order provides that "no processor, manufacturer or seed dealer shall purchase or accept delivery of soybeans of the 1942 crop in a total quantity which . . . would be in excess of his . . . requirements for the period ending October 10, 1942 . . ." The purpose of the order is to assure an adequate supply of soybeans to meet essential civilian and war needs. This order supersedes in all respects Commodity Credit Corporation Oilseed Order No. 3, issued October 14, 1942. Commodity Credit Corporation's jurisdiction as originally defined by the Secretary includes the authority to regulate the purchase, sale and delivery of stock or processed peanuts. Accordingly, on June 10, 1943 (8 F.R. 7887) the War Food Administrator delegated to the President of Commodity Credit Corporation responsibility for the administration of CCC Order No. 4. The Order restricts the sale and delivery of stock peanuts with certain exceptions or unless authorized by the President of the Corporation. The sale and delivery of peanuts for planting except upon certain conditions is also prohibited. Furthermore, "no producer shall sell or deliver peanuts which have been processed by him on the farm where produced in a quantity in excess of the equivalent of two tons of farmers' stock peanuts . . ."

At this time there are still in effect two of the Oilseed Orders originally issued by Commodity Credit Corporation under authority of War Production Board Directive No. 7. They are Commodity Credit Corporation Oilseed Orders Nos. 1 and 2. Two of the original orders, Oilseed Orders Nos. 4 and 5, directed and controlled the disposition of soybean oilmeal. The nature of that control is beyond the present scope of Commodity Credit Corporation's authority as set out in the Secretary's Memorandum No. 1054, Supp. 2, of January 22, 1943, but the orders remained none the less effective until set aside by the War Food Administrator. (see Executive Order 9280, Section 14.) On May 29, 1943 (8 F.R. 7209) the Administrator effectuated the revocation of these two orders.

Commodity Credit Corporation Oilseed Order No. 1, controlling the sale of 1942 excess peanuts, is within the ambit of that authority delegated to Commodity Credit Corporation by the Secretary to direct programs relating to the purchase of all oil-bearing materials. Commodity Credit Corporation Oilseed Order

No. 2 allocates certain quantities of cottonseed, peanut, and soybean oil to the manufacture of edible products. According to the Director's Memorandum No. 2 of January 13, 1943, that part of the supply of oilseed products allocated to edible purposes is the responsibility of the Food Distribution Administration, however, until the Administrator acts in regard thereto, Commodity Credit Corporation's Order No. 2 remains effective.

c. Authority of Food Production Administration:

The oilmeal or cake produced in the crushing of vegetable oil-bearing seeds is used in the manufacture of fertilizer and feeds for animals. Both commodities are essentially a food production problem.

Prior to Executive Order 9280 the Fertilizer Unit of the Inorganics Section of the Chemical Division of the War Production Board was responsible for the administration of War Production Board Conservation Order M-231. According to this order manufacturers are restricted in the sale of certain grades of chemical fertilizer according to schedules. Chemical fertilizer is any plant food containing among other things nitrogen. Organic nitrogen is derived from cottonseed meal, peanut meal, soybean meal, etc. It was agreed between the Department and the War Production Board that responsibility for the administration of Order M-231 should be transferred to the Department of Agriculture. The Secretary, by his Memorandum No. 1054, Supp. 1, of January 16, 1943, assigned the unit administering Order M-231 transferred from the War Production Board to the Food Production Administration. War Production Board Order M-231 was reissued by the Secretary on January 18, 1943, (8 F.R. 947) as Food Production Order 5 and the administration of that order was delegated to the Director of Food Production.

Food Production Order 5 only indirectly controls the flow of oil meal but more extensive authority with regard thereto was given to the Food Production Administration by Food Production Order No. 8, issued February 10, 1943, (8 F.R. 1826) by the Secretary. This order supersedes Commodity Credit Corporation Oil Seed Order No. 7, but continued the restrictions of the original order with two exceptions. The order prohibits the purchase, acceptance or delivery of cottonseed oil meal, soybean oil meal, peanut oil meal or linseed oil meal for use in the manufacture of mixed fertilizers. The restrictions of the order do not apply in cases where cottonseed oil meal is to be used - with the approval of the Director of Food Production - in the manufacture and sale of mixed fertilizers for use on citrus fruits, cigar leaf tobacco and vegetables listed among the "A" crops under Food Production Order No. 5. Food Production Order No. 8 specifies that the Director of Food Production shall have the authority to administer the order and exercise all of the Secretary's powers with regard thereto.

Food Production Order No. 9, issued February 27, 1943, (8 F.R. 2527) and amended April 30, 1943, continues the limitations contained in Commodity Credit Corporation Oilseed Order No. 6 on oilseed meal stocks of feed manufacturers, dealers and consumers. The order prohibits processors from acquiring a stock of oilseed meals as of the end of any month in excess of the quantity held as of the same date in 1942, or an amount equal to the quantity produced or acquired by processors during the preceding five days - whichever is greater.

The Director of Food Production was authorized by the Secretary to administer the order and on February 27, 1943, the Director redelegated his authority under the order to the President of the Commodity Credit Corporation. However, upon reissuance of the order on April 30, 1943, the War Food Administrator again delegated to the Director of Food Production authority over the administration of the provisions of the order.

IV

MOLASSES

Molasses is within the general definition of "food" as a commodity which may be consumed by both humans and animals. A part of the supply is also used industrially. It is utilized in the manufacture of insecticides, lactic acid, graphite paste, printing folders, dye stuff, ink, dust extracting and leather tanning compositions, as well as yeast, citric acid, sugar, denatured rum for flavoring, biological and pharmaceutical products, mixed feeds, vinegar and syrup.

According to Section 3 of Executive Order 9280, set out above, the War Food Administrator and the Chairman of the War Production Board should determine jointly what portion of the available supply of molasses will go into industrial products and what portion into edible commodities. The amount allocated to edible purposes should thereafter be subject to the authority of the War Food Administrator to direct by allocations and priorities its distribution within those purposes.

At the time control over the production and distribution of "food" was delegated to the Secretary of Agriculture there was in effect War Production Board General Preference Rating Order M-54, regulating the sale, transfer and delivery of molasses. The order specified that manufacturers of the products listed above could not accept deliveries of molasses in excess of designated quantities. Also, its use in the manufacture of beverage spirits was restricted except as otherwise provided by the Director General of Operations. Some of the commodities, the manufacture of which requires the use of molasses and which are affected by the restrictions of the order, are "foods" for human and animal consumption. The order was administered by a section of the Chemical Division of the War Production Board which was not transferred to the Department of Agriculture. It was reissued by the War Production Board on January 21, 1943, with all its original restrictions.

The entire supply of molasses continued subject to the jurisdiction of the Chairman of the War Production Board, who made allocations of quantities to all purposes, whether edible or inedible until the issuance of Food Distribution Order No. 51, on April 24, 1943. Food Distribution Order 51 supersedes War Production Board General Preference Order M-54, as amended, insofar as the latter order applies to "edible molasses". "Edible Molasses" is defined in Food Distribution Order No. 51 to mean "(i) any molasses, syrup, or sugar solution derived from sugarcane, which contains soluble non-sugar solids equal to more than six percentum of the total soluble solids, and which is to be used for human consumption, or (ii) any syrup of cane juice produced from sugarcane grown in the continental United States, which is to be used for human consump-

tion, notwithstanding the percentage of non-sugar solids in the total soluble solids."

Unless specifically authorized by the Director of Food Distribution no person can accept delivery of "edible molasses" for the purpose of processing it for resale or for use in the manufacture of any product for human consumption other than molasses as such in excess of 100 percent of a yearly supply during any marketing year. Under the Order blenders and food manufacturers are required to give to suppliers of molasses upon acceptance of quantities thereof a certification to the effect that by reason of such delivery they will not have received a quantity in excess of their permitted quota.

V

VITAMINS

Section 10 of Executive Order 9280 specifies that the term "food" as used therein shall include "complements of such commodities or products that are or may be eaten or drunk by either humans or animals." Vitamins are an element of nutrition in the diet of humans and animals and as such are complements of food.

At the request of the Interdepartmental Transfer Committee, the Director of the Budget did not originally make any determination with regard to the transfer to the Department of Agriculture of that part of the the Pharmaceutical, Glandular and Vitamins Unit of the Chemical Division of the War Production Board concerned with vitamins. Some study has since been given to the proper division of responsibility between the War Food Administration and the War Production Board with regard to the production and distribution of vitamins.

A brief glance at the background of the vitamin industry is necessary in order to understand the problems involved in a determination of what the most practical division of responsiblity between the two agencies would be. The true vitamin is derived from the livers of cod, shark, halibut and other fish and from certain raw agricultural products. These commodities are generally the responsibility of the War Food Administration. A synthetic vitamin is developed from a combination of chemicals, which chemicals are subject to the jurisdiction of the War Production Board.

The bulk of the vitamins produced falls within two general uses: The inclusion in processed foods, commonly referred to as "fortification", and the pharmaceutical uses, or the use of vitamins in tablets or other forms. Since in both instances, the objective is that of meeting deficiencies in food, it is apparent that vitamins for either use are subject to the powers and responsiblities of the War Food Administrator under the terms of Executive Order 9280. However, since vitamins for pharmaceutical uses are distributed through trade channels within the jurisdiction of the War Production Board and since chemicals generally are the responsibility of the War Production Board it was not regarded feasible to transfer complete authority over production and distribution of all vitamins to the War Food Administrator. It was determined, however, on February 23, 1943, by the Director of

the Budget, pursuant to agreements entered into between representatives of the two agencies, that the Secretary of Agriculture would have full responsibility for ascertaining all requirements for vitamins - domestic and foreign, fortification and pharmaceutical, and that he would be charged with formulating and carrying out a program to furnish a supply adequate to meet all such requirements. (see Exhibit K.)

This designation of authority did not settle all questions as to the proper division of authority in the vitamin production and distribution program. A supplementary proposal has been made. It has therein been proposed that the Chairman of the War Production Board should have jurisdiction over the production of vitamins other than fish oils, carotene, and vitamins derived from agricultural commodities. In such case the War Production Board would be the claimand agency for all critical materials required in the production of those vitamins within its jurisdiction and the War Food Administration for critical materials required in the production of fish oil, carotenes, etc. The Administration under the proposed plan would issue orders regulating the flow of vitamins for food fortification purposes. War Production Board would issue all other orders. The War Food Administration would make general allocations to all claimant agencies and the War Production Board would make specific allocations within the predetermined general allocations made by the Administration.

It is understood that several vitamin orders are in the process of being issued by the War Production Board. The nature of the orders is not known. There is in effect at present only one vitamin order which is Limitation Order L-40, issued by the War Production Board, revised on August 26, 1942, and again on March 27, 1943, and administered by the Health Supplies Branch of the War Production Board. The purpose of the order is to conserve the supply and direct the distribution of Vitamin A. The quantities of Vitamin A consumed in the manufacture of multi-vitamin preparations for human consumption and in the manufacture of poultry, cattle, fur-bearing or other animal feed are therein reduced.

It would appear that the nature of the control over Vitamin A therein asserted is such that, in event the proposed division of authority between the War Production Board and the Administration becomes effective, the administration of the order properly should come from within the War Food Administration.

VI

LIVESTOCK AND MEATS

Although segments of the Government's war planning with regard to livestock and meats are discussed under other topics and in connection with particular phases of the war food program, it is deemed expedient for purposes of clarity to consolidate at this point in one complete picture all aspects of the Government's program for controlling war time production and trade in livestock and meats.

Originally, the War Production Board's authority to direct all production and procurement in behalf of the war effort included the power to control the livestock and meat program. On September 12, 1942, the War Production Board, by Directive 1-M, authorized the Office of Price Administration to control "the sale, transfer, delivery or other disposition of meat by or to any person and over the use of meat by any person." This authority of the Office of Price Administration was subject to the power of the Food Requirements Committee (and the direction of the Chairman of the War Production Board) to determine overall allocations of the available supply of meat among (1) domestic civilian food use, (2) the Army, (3) the Navy, (4) foreign uses by countries, (5) other governmental food uses, and (6) general purpose stockpile.

Pursuant thereto, the Office of Price Administration issued Restriction Order No. 1 on October 1, 1942, according to which all persons who slaughtered during the first nine months of 1942 any cattle, calves, sheep, lambs or swine which produced meat having an aggregate conversion weight in excess of 1,500,000 pounds, and all persons who slaughtered during any quota period any of the above livestock which produced meat having an aggregate conversion weight in excess of 500,000 pounds were restricted to the delivery of prescribed quotas of meat for designated periods. All other slaughterers were required by the order to limit their deliveries to the amounts delivered by them during corresponding base periods.

Subsequent to Executive Order 9280 and on March 20, 1943, the Acting Secretary of Agriculture in Food Directive No. 7 (8 F.R. 3471) declared that in order to permit the effective rationing of meats, all meats were to be "rationed food" for the purposes of Food Directive No. 3 (8 F.R. 2005), and that the Office of Price Administration was authorized to exercise all powers delegated to it by Food Directive No. 3 with respect to all meats. The provisions of War Production Board Directive 1-M were not directly affected by Executive Order 9280 except insofar as it reserved any overall supervisory capacity in the War Production Board. However, Food Directive No. 7 expressly superseded War Production Board Directive 1-M in all respects and the Office of Price Administration thereafter functions subject to the direction of the War Food Administrator and the basic jurisdiction of the Administrator to ascertain the quantities of meat available for civilian consumption.

The Office of Price Administration on March 20, 1943, by Ration Order No. 16, inaugurated a meat rationing program. That office on March 31, 1943 (8 F.R. 4151) transferred to the Department of Agriculture its functions of administering and enforcing the provisions of Restriction Order 1, as amended, which presently continues in full force and effect. On the same day, the Secretary of Agriculture issued appropriate amendments to the order. The order was amended again on May 26, 1943 by the Acting War Food Administrator (8 F. R. 7006). Hereafter, "all registration statements and reports required to be filed . . . and all communications concerning Restriction Order 1, as amended, shall be addressed to: United States Department of Agriculture, Food Distribution Administration."

Since October 20, 1942, the Secretary of Agriculture, by reason of War Production Board Directive No. 11, has had the authority to "perform the functions and exercise the power, authority, and discretion conferred upon the President by Section 2(a) of the Act of June 28, 1940 (Public No. 671, 76th

Congress; 54 Stat. 676) as amended by the Act of May 31, 1941 (Public No. 89, 77th Congress; 55 Stat. 236), and as further amended by the Act of March 27, 1942 (Public No. 507, 77th Congress; 56 Stat._____), with respect to the exercise of control over the disposition of livestock." The authority of the Secretary thereunder included the power to "establish such controls respecting the sales, movement and disposition of livestock, including any class or grade thereof, as he may deem to be to the best interest of the war effort."

Since control over the Nation's food program has been conferred upon the War Food Administrator by a series of Executive Orders, his authority with regard to the production and distribution of livestock and meats is plenary, and any exercise by him of such authority stems not from any delegation of authority to him by the Chairman of the War Production Board or the Office of Price Administration but comes directly from the President through Executive Orders Nos. 9280, 9322 and 9334. The following orders have been issued since Executive Order 9280 for the purpose of assuring an adequate supply and efficient distribution of meat and meat products to meet war and essential civilian needs:

1. Food Distribution Order 26, March 5, 1943: No person who buys cattle, calves, hogs, sheep and lambs for purposes of resale or who buys or sells such livestock on a commission or agency basis shall buy or sell any livestock without first securing a permit from the Director of Food Distribution. Any dealer or agent who is registered at a posted stockyard under the provisions of the Packers and Stockyards Act, 1921, is not required to obtain a permit to buy and sell at such stockyard.

2. Food Distribution Order No. 27, March 5, 1943, as amended June 9, 1943: (a) No slaughterer (one who slaughtered in excess of 300,000 pounds in 1941) or butcher shall slaughter any cattle, calves, hogs, and pigs, and sheep and lambs for delivery of beef, veal, mutton, lamb and pork unless he has a valid permit at the time. (b) no slaughterer or butcher shall be eligible for such permit unless he has provided at least minimum sanitary facilities for such slaughtering. (c) No slaughterer or butcher shall slaughter in any one month, in addition to his deliveries to Government agencies, more livestock of each type than specified quotas of that type for the month. By Amendment No. 2, April 30, 1943, all temporary beef quotas were suspended during the month of May, 1943.

3. Food Distribution Order 28, March 5, 1943: Each slaughterer shall set aside and hold for delivery to Government agencies such quantities, types, cuts and grades of meat during such periods of time as may be specified by the Director of Food Distribution. Under Food Distribution Order No. 28.1, as amended April 7, 1943, slaughterers operating under Federal inspection are required to set aside the following percentages: Beef, other than canner and cutter grades, 40 percent; canner and cutter grades (steers, heifers and cows), 80 percent; veal, 30 percent; lamb and mutton, 35 percent; pork, 45 percent.

4. Food Distribution Order No. 48, as amended June 4, 1943 (8 F. R. 7520): Slaughterers after April 17, 1943, are not permitted to have more pork and beef, frozen, cured, in cure - on hand than they had when they calculated their inventories at the end of their second quota period, (about March 31, 1943) under the Meat Restriction Order. Slaughterers without quotas may

not keep more meat on hand than they had on either March 27, or April 3, 1943.

VII

COTTON, WOOL, HEMP, and FLAX

A. DIVISION OF RESPONSIBILITY WITH REGARD TO FIBERS GENERALLY BETWEEN WAR FOOD ADMINISTRATION and THE WAR PRODUCTION BOARD:

Among "foods," as defined by Section 10 of the Executive Order, are cotton, wool, hemp and flax. In certain forms these commodities are clearly the responsibility of the War Food Administration, whereas in other forms they are just as clearly a problem of the War Production Board.

The transfer of the Raw Cotton, Wool, and Cordage Fibers Section of the Textile, Clothing and Leather Division of the War Production Board to the Department of Agriculture was withheld originally subject to further technical advice (see Report of Interdepartmental Transfer Committee, January 6, 1943). Upon written recommendation of the Interdepartmental Transfer Committee as to the proper division of control over fibers the Director of the Bureau of the Budget on February 15, 1943, provided as follows:

> "It is therefore evident that, as in the case of other food, the Secretary of Agriculture has full responsibility for ascertaining the requirements for cotton, wool, hemp, and flax, to meet the direct and indirect military, other governmental, and civilian needs. He is further charged with formulating and carrying out a program designed to furnish a supply adequate to meet such requirements. /It may be considered axiomatic that farm production of these commodities is entirely within the province of the War Food Administration/. . . Such a program would of necessity include the determination of the amounts of each commodity to be produced domestically, the amounts to be imported, and the amounts to be stockpiled to meet contingencies. . . In view of the Department's basic responsibility for the total program, such directives /for the importation of food heretofore issued to the Board of Economic Warfare by the Chairman of the War Production Board . . ./ would normally originate in the Department . . . The handling of stockpiles and allocations to other than domestic civilian uses should be among the first problems to be resolved by specific agreement between the two agencies." (see Exhibit L (I))

It was thereafter agreed between representatives of the Department of Agriculture - now the War Food Administration - and the War Production Board that the War Food Administration will have jurisdiction over cotton through the delinting operation. Also, the Administration is to control production of wool up to but not including the scouring and combing operations. Flax and hemp will be under the direction of the Administration through the decorticating operation. The Administration is to be the claimant agency for any critical materials required throughout any of the operations it is to control and for the requirements of warehouses, wholly concerned with the warehousing of the above fibers (see discussion under Non-Foods re manner in which critical materials required in the food program are supplied and allocated). The War

Production Board is to have full responsibility for and control over the allocation of these commodities to industrial users as well as control over the uses to which the fibers may be put. (The agreement is attached hereto as Exhibit L (II))

B. DIVISION OF AUTHORITY WITH REGARD TO SPECIFIC FIBERS.

1. Production and Distribution of Cotton Linters: As has been seen, under the oilseed program the War Food Administrator has responsibility over the crushing of oil-bearing seeds and over the disposition and use of the oil and meal. It has in addition been necessary in the past for the Department to buy, store, and ship to powder plants the output of cotton linters, required in the manufacture of explosives. It was the view of the Interdepartmental Transfer Committee that "it would simplify and facilitate this operation as well as provide for a consistent policy from the ginning of cotton through the production of linters - that is, the cutting of the linters from the seed - if the Department were also to have control over linters until the linters are delivered to the explosive plant or other consuming agency designated by the War Production Board." However, the original agreement between the War Production Board and the Department of Agriculture expressly gave the War Food Administration jurisdiction only through the delinting process and was silent with respect to the proper agency to control the subsequent distribution of the linters. With regard thereto, it was agreed between the two agencies on June 21, 1943 that the "War Production Board shall continue to initiate programs and to supervise the quantities and qualities and the allocation and distribution of that part of the linter production to be used for 'chemical cotton pulp', and in exercising such supervision will consult with the Department of Agriculture". (see agreement attached hereto as Exhibit L (III)).

The War Production Board by Directive No. 7 on August 15, 1942, delegated to Commodity Credit Corporation authority to allocate "linters derived from vegetable oil seeds", subject to the overall jurisdiction of the War Production Board. (This delegation of authority as well as that authority reserved therein to the War Production Board is apparently unimpaired by the subsequent agreements between the War Production Board and the Department of Agriculture). The War Production Board, on September 30, 1942, issued General Preference Order M-12, which required that all deliveries of cotton linters should be to the Commodity Credit Corporation and that the Commodity Credit Corporation should deliver cotton linters only to such persons as would be designated by the Director General for Operations of the War Production Board.

2. Production and Distribution of Hemp: The production of hemp fibers is clearly a War Food Administration problem under the terms of the agreement between the War Production Board and the Department of Agriculture. With regard thereto the Secretary of Agriculture on January 22, 1943, by Memorandum No. 1054, Supp. 2, authorized the Commodity Credit Corporation to formulate and administer programs relating to "the purchase, processing, storage and transportation of hemp, including the formulation and transmission to the War Production Board through the appropriate agencies and officers of the Department, of recommendations for priorities and allocations with respect to the first processing of . . . hemp." The Commodity Credit Corporation has undertaken direction of an extensive hemp production program.

War Production Board Order M-82, September 30, 1942, allocates the supply of hemp seed to be used in the growing of hemp fiber or for the production of additional hemp seeds. The sale and delivery of hemp seed is not permitted except upon orders placed by the Commodity Credit Corporation and upon such other orders as may be specifically authorized by the Director General of Operations. The actual administration of the order comes from within the Department of Agriculture. All Commodity Credit Corporation orders for hemp seed are assigned an A-10 Preference Rating and Commodity Credit Corporation may apply the rating by endorsing on the order a certification to the effect that the Corporation is entitled to apply the preference rating indicated. The Office of Agriculture Defense Relations, Department of Agriculture is designated as tabulating agent for the War Production Board to receive reports from owners of hemp seed of the amount of seed possessed and its location.

Sunn Hemp is a fiber of the crolataria or hibiscus variety, including but not limited to the Bengal and Madras hemp grown in India. The War Production Board by Conservation Order M-187 issued September 30, 1942, reserved the entire supply of Sunn hemp for use in the manufacture of marine oakum, a material for caulking ships. The authority of the War Production Board to direct the use of hemp in this manner is clear.

3. Production and Distribution of Cotton: A type of control similar to that of the War Production Board in Order M-187 over Sunn hemp is exercised by the Board with regard to the distribution and use of raw Egyptian or American extra staple cotton by Conservation Order M-117, as amended January 4, 1943. No person, unless specifically authorized by the Director General of Operations shall sell, deliver or accept, process or use any cotton reserved by the terms of the Order. The order does not apply, however, to sales and deliveries to the Board of Economic Warfare, Commodity Credit Corporation and other corporations created under Sec. 5d of the Reconstruction Finance Corporation Act. The movement of cotton intended to be incorporated into equipment for the Army and Navy or for the manufacture of stitching thread is not subject to the restriction of the Order.

The present authority of the War Production Board with respect to the administration of War Production Board General Conservation Order M-236, as amended June 16, 1943, is not so clear. This Order requires an authorization by the Director General of Operations for the importation into this country of any "long staple raw cotton." The responsibility of the War Food Administration to ascertain cotton requirements upon which to plan a domestic production program must necessarily be coordinated with policies concerning importations. It is obvious that the extent to which an imported cotton can supplement domestic cotton is significant to the administration's production planning. Also the Department of Agriculture for many years has been making requirement determinations on the basis of staple and grade. The same considerations are significant in estimating importation requirements. It is understood however, that only a negligible amount of cotton comparable to the imported long-staple raw cotton is produced in this country. If this is the case, there would not appear to be the same compelling reason for the administration of M-236 from within the War Food Administration as would otherwise exist. The necessity for coordinated planning in the domestic production and importation programs would not be present.

4. Production and Distribution of Wool: Food Distribution Order No. 50 was issued on April 17, 1943. This order provided that:

> "no person shall sell or deliver domestic wool to any person other than the Corporation (Commodity Credit Corporation); and no person other than the Corporation shall purchase or accept delivery of domestic wool, except as hereinafter provided or specifically authorized by the Director [of Food Distribution]."

On April 3, 1943, the Department of Agriculture announced that the Commodity Credit Corporation would purchase domestic wool at prevailing ceiling prices less handling costs, the wool then to be sold to the manufacturer at ceiling prices. (War Production Board Conservation Order M-73, as amended June 8, 1943, 8 F.R. 7644, restricts the amount of wool which manufacturers may use in the manufacture of fabrics for specified purposes.) Food Distribution Order No. 50 does not apply as follows: (1) Secondary or country handlers may purchase for their own account lots of 1,000 pounds or less, provided that such wool is later sold to the Commodity Credit Corporation. Handlers may also receive wool in any quantity on consignment for sale to the Commodity Credit Corporation. (2) From April 25 to December 31, 1943, manufacturers may purchase from producers located within 50 miles of their plants a quantity of wool not in excess of the quantity purchased by them directly from producers in 1942. (3) The order does not apply to wool sold by producers prior to April 25, 1943.

It would appear that the effect of the Order would be to control the interim distribution of wool from producer to manufacturer and not to invade the jurisdiction of the War Production Board to control the allocation of the supply to industrial uses.

On April 17, 1943, Roy F. Hendrickson, Director of Food Distribution, designated Laurence Myers, Milton S. Briggs and William T. Darden, employees of Commodity Credit Corporation, as Administrator and Alternate Administrators of Food Distribution Order No. 50, subject to the overall jurisdiction of the Director of Food Distribution.

Supplemental Order F.D.O. No. 50-1, issued May 31, 1943, 8 F.R. 7211, provides that "purchases of domestic wool by, and sales thereof to, Indian traders from Indians on Indian reservations under the jurisdiction of the United States, and the purchases, sales, and deliveries of such wool by such Indian traders to secondary handlers are hereby specifically authorized."

VIII

NON-FOODS ESSENTIAL TO THE FOOD PROGRAM

A. GENERAL EFFECT OF EXECUTIVE ORDER 9280 UPON WAR PRODUCTION BOARD'S AUTHORITY OVER NON-FOODS ESSENTIAL TO THE FOOD PROGRAM

1. Provisions of Executive Order 9280 with regard to non-foods essential to the Food Program:

It was recognized that in order for the War Food Administrator to effectively discharge his responsibilities under Executive Orders Nos. 9280, 9322, and 9334,

it would be essential that he exercise in some degree control over non-food materials necessary in the production and distribution of "food". Non-foods most vital in the administration of the "food" program are food processing machinery, canning equipment, cans and closures, and farm machinery and equipment.

Section 2 of Executive Order 9280 provides that:

> "The Secretary shall recommend to the Chairman of the War Production Board the amounts and types of non-food materials, supplies, and equipment necessary for carrying out the food program. Following consideration of these recommendations, the Chairman of the War Production Board shall allocate stated amounts of non-food materials, supplies and equipment to the Secretary for carrying out the food program; and the War Production Board through its priorities and allocation powers, shall direct the use of such material, supplies, and equipment for such specific purposes as the Secretary may determine."

In Sec. 8.b(2) of the Order it is further stipulated that the Secretary may, subject to other provisions of the Order, exercise the priorities and allocation powers conferred upon the President by Title III of the Second War Powers Act with respect to those portions of non-food materials which have been allocated to the Secretary by the War Production Board under Sec. 2 (quoted above) of the Order, and Sec. 8.b.(3) provides that the Secretary may exercise these powers over:

> "any other material or facility, when the Secretary determines that it is necessary, in order to carry out the provisions of this Executive Order, to exercise the priorities and allocation power with respect thereto: PROVIDED, That in order to avoid overlapping and conflicting action, prior to taking action pursuant to item (3) hereof, the Secretary shall inform the Chairman of the War Production Board of the action proposed to be taken, and in the event that the Chairman of the War Production Board shall object, the issue shall be determined by the President or such agent or agency as he may designate."

Some question has arisen as to how these three sections should be interpreted so as to avoid what appears to be a conflicting delegation of authority to the War Production Board and to the Administration to assign priorities and make allocations of non-foods which are to be used in the "food" production and distribution program.

2. Reconciliation of Apparent Inconsistencies Between These Provisions of Executive Order 9280, dealing with Non-Foods.

The flow of non-food material into the food program involves three possible steps: In the first place, raw materials going into essential parts must be distributed between manufacturers; secondly, essential parts must be allocated to manufacturers of finished equipment; and thirdly, the finished product must be distributed to the farmer, canner, processor, etc., as the case may be.

(In the absence of Section 8.b.(2) and 8.b.(3) of Executive Order 9280 the Administrator would not have authority to make allocation of non-foods or to assign preference ratings to orders thereof at any of the three stages mentioned unless the Chairman of the War Production Board should specifically delegate his authority with regard thereto to the Administrator.)

In defining the Department's jurisdiction over "non-foods" in general terms, the Secretary in Sec. 4 of his Memorandum No. 1055, December 16, 1942, (Exhibit "M") said:

> "The Chairman of the War Production Board will continue to exercise central direction and control over priorities and allocations for non-food materials and for facilities. The Secretary of Agriculture will act as claimant agency in accordance with the Controlled Materials Plan. . . Upon consideration of the Secretary's statement of requirements . . . the Chairman of the War Production Board . . . will allocate to the Secretary of Agriculture so much of the required material and facilities as may be available. . . The Secretary of Agriculture will determine the use to which the allocated non-food material and facilities will be put. <u>The War Production Board will direct the flow of such material and facilities to manufacturers accordingly</u>.

A similar statement of authority was issued by the Chairman of the War Production Board to his staff.

The Controlled Materials Plan in substance is a device by which the supply of steel, copper, and aluminum is distributed among manufacturers of machinery and equipment and parts thereof. Allocations of the finished products are made independent of the Controlled Materials Plan. Therefore, the statement in Section 4 of the Secretary's Memorandum No. 1055, quoted above, may be logically construed as an intent to limit the authority of the War Production Board over non-food materials essential to the "food" program and allocated to the Administrator under Sec. 2 of the Order to the allocation of the raw materials to the manufacturers. Under 8.b.(2) the Administrator would take up at that point and direct the distribution of the finished product to the user thereof.4/ With regard to farm machinery, this is in fact what has taken place since Executive Order 9280. For example, under Food Production Order No. 3, the sale to the ultimate user of pressure cookers is controlled by the War Food Administration without specific delegations of authority from the War Production Board or the Office of Price Administration. The distribution of the finished product to the ultimate user is being handled for the most part by civilian rationing.5/

4/ In the reorganization of the Department of Agriculture to administer the Food Program, the following arrangements were made to take care of the critical material requirements of the Department:

The Facilities Branch of the Food Distribution Administration was established to assemble all data relative of Food Distribution Administration needs for facilities for the purpose of determining requirements of critical materials. (see Director's Memorandum No. 2, January 13, 1943, and Director's Memorandum No. 3, March 2, 1943). The Production Supplies Program Branch of Food Production Administration is to determine that Administration's requirements

B. TRANSFER OF FUNCTIONS TO THE WAR FOOD ADMINISTRATION FROM WAR PRODUCTION BOARD PURSUANT TO EXECUTIVE ORDER 9280.

1. Functions affected: It was decided by the Interdepartmental Transfer Committee on January 6, 1943, that the following units would be transferred from the War Production Board to the Department of Agriculture:

1. That part of the Farm Machinery and Equipment Division concerned with the Farm Machinery Program.

2. That part of the Food Processing Machinery Section concerned with the food processing machinery program.

3. The Machinery Unit of the Textile and Clothing Branch concerned with plans, programs, and requirements relative to farm machinery and food processing machinery.

4. The Containers Section of the General Commodities Division of the Office of Civilian Supply concerned with plans, programs and requirements for food containers.

The Assistant Director of the Bureau of the Budget ordered their transfer on January 8, 1943. Those dealing with the Farm Machinery program were assigned

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4/ (continued)
for critical materials to carry out the Food Production Program (see Food Production Memorandum No. 2, January 22, 1943). The Secretary's Memorandum No. 1070 established a Critical Materials Committee to coordinate priority applications and allotments in the Department. The Controlled Materials Officer will submit the total requirements of the Department of Agriculture for controlled materials to the War Production Board. By the Administrator's Memo No. 4, the Materials Control Branch of the Office for Agricultural War Relations, the Facilities Branch of the Food Distribution Administration, the Production Supplies Program Branch and the Farm Service and Supply Branch of the Food Production Administration, and the Priorities Service branch of the Commodity Credit Corporation were consolidated into an Office of Materials and Facilities to be under the supervision and direction of Mr. Lee Marshall, Deputy Administrator.

5/ By War Production Board Directive 1-K, September 12, 1942, and 1-P, October 30, 1942, the Office of Price Administration was authorized to ration farm machinery and equipment, fluid milk shipping containers and covers, and farm fencing. The Office of Price Administration by Administrative Orders No. 28, September 15, 1942, and No. 30, November 11, 1942, authorized the Secretary of Agriculture to exercise this rationing control with respect to the commodities named. The Secretary, on September 16, 1942, October 28, 1942, and November 21, 1942, in Temporary Rationing Orders A, B and C delegated the rationing powers conferred upon him by Office of Price Administration Orders Nos. 28 and 30, to the Special War Board Assistant within the Department. The Office of Special War Board Assistant was abolished and these functions transferred to the Director of Food Production by the Secretary on January 20, 1943 (see Memorandum No. 1065). On January 20, 1943, Temporary Rationing Orders A, B and C were issued as Food Production Orders Nos. 1, 2 and 3.

to the Food Production Administration by the Secretary's Memorandum No. 1054, Supp. 1, of January 16, 1943, whereas those branches dealing with the food processing machinery program were assigned to the Food Distribution Administration That part of the Containers Section concerned with requirements for farm food containers was also assigned to Food Production Administration, and that division of the section having to do with containers for non-farm foods was made a part of the Food Distribution Administration.

At the time these particular units were transferred from the War Production Board to the Department of Agriculture there were in effect only two non-food orders administered by the units transferred. They were Preference Rating Orders Nos. P-115 and P-118. Under the former, preference ratings were assigned to deliveries of materials, equipment, accessories, etc. to any person engaged in canning or processing fruits, vegetables, and fish. In Preference Rating Order No. P-118 preference ratings were assigned to deliveries of equipment, etc. used by any person engaged in processing dairy products or eggs.

Both orders were reissued on February 8, 1943, and amended on June 3, 1943, 8 F. R. 7443, by the War Production Board but the Food Distribution Administration was designated as the agency to administer them. Preference rating assignments are to be made by the Director General for Operations for the War Production Board upon the recommendation of the Director of Food Distribution. The Director of Food Distribution is designated as the agent to inspect plants and books of producers receiving material through contracts rated under the orders. Reports required to be filed and all communications are to be directed to the Director of Food Distribution. (This is consonant with the apparent purpose of the Secretary to vest authority to direct the distribution of food processing machinery in the Food Distribution Administration.)

2. Functions Not Affected: There are presently in effect certain other War Production Board orders which control in various ways non-food materials essential to the food program. They are briefly, as follows:

1. Limitation Order L-30-d, March 26, 1943, restricts the manufacture of miscellaneous cooking utensils, including among other things, pressure cookers containing more than 7½%, by weight, of metal and restricts inventories of raw materials used therein by manufacturers of those articles.

2. Limitation Order L-63, August 13, 1942, limits the inventories suppliers of construction, dairy, farm, grain elevators, hardware and other industrial equipment may maintain. The purpose of the order is to conserve the supply of aluminum, copper, iron and steel going into the equipment.

5/ (continued)
Since Executive Orders 9280, 9322 and 9334, the War Food Administration has been controlling the distribution and rationing of farm machinery without reliance on previous delegations from the Office of Price Administration. The Distribution of Farm Supplies Branch of the Food Production Administration has responsibility for the administration of farm supply rationing programs and of all allocation, reservation and limitation orders affecting farm supplies. (see Food Production Memorandum No. 2, January 22, 1943.) On May 10, 1943, the War Food Administrator designated Mr. Lee Marshall as Deputy Administrator to be responsible for all machinery, supply, material and equipment programs of the Administration. See Exhibit I.

3. Limitation Order L-83, April 9, 1942, amended March 12, 1943, limits the manufacture and distribution of bakery machinery, confectionery machinery, coffee grinding machinery, food slicing machinery, dairy machinery, etc. The conservation of critical materials is again aimed at.

4. Limitation Order L-123, as amended June 10, 1943 (8 F.R. 7817), restricts the production and distribution of general industrial equipment, some of which equipment is necessary in the production of foods.

5. Limitation Order L-170, as amended April 6, 1943, and Amendment 1 thereof of May 18, 1943; Supp. Limitation Order L-170-a, May 18, 1943, 8 F.R. 6539, further restricts the production of farm machinery and equipment, attachments and repair parts for the purpose of conserving critical materials.

6. Limitation Order L-190, April 29, 1943, restricts the manufacture and transfer of parts for scales and of the finished product.

7. Limitation Order L-211, Schedule 3, March 2, 1943, restricts the production and transfer of certain grades of barbed wire and of woven or welded wire fence, wire netting or wire flooring.

8. Limitation Order L-292, June 5, 1943, 8 F.R. 7541, restricts the manufacture of any new food processing machinery which appear on schedules attached to the Order.

9. Conservation Order M-218, September 30, 1942, regulates the use of cotton textiles for agricultural and food processing purposes.

The primary object of these orders is for the most part to control the flow of raw materials required in the manufacture of essential non-food machinery and equipment. Departmental requirements are considered in the issuance of such regulations. General Preference Rating Order M-330 was issued on June 1, 1943 (8 F.R. 7312) by the War Production Board. The purpose of the order is to conserve an already diminished supply of certain farm materials. The effect of the order is to direct manufacturers and distributors in the production, segregation, earmarking or delivery of listed farm supplies in such manner as to assure that those supplies are made available to farmers. Any manufacturer or distributor who received a special direction from the War Production Board under the order is required to disregard preference ratings to the extent necessary to comply with such direction. War Production Board Priorities Regulation 19 issued concurrently and amended June 8, 1943 (8 F.R. 7814) sets forth the procedure by which farmers and dealers acquire priority ratings for the acquisition of farm supplies. If a farmer wants to use a certificate to buy more than $25.00 worth of farm supplies at one time of any item on the list, he must first get his certificate approved in writing by the County Farm Rationing Committee. This exercise of authority by the War Production Board is beyond the jurisdiction of the Board as defined above in accordance with the terms of Executive Order 9280 and the identical memoranda issued by the Secretary and the Chairman of the War Production Board to their respective staffs. (see above). However, it is under-

stood that it was orally agreed between representatives of the two agencies that due to the nature of the items subject to the provisions of War Production Board Order M-330 and Priorities Regulation 19, and for purposes of expediency, the distribution of those items should be controlled through the priorities system of the War Production Board. It appears that it was understood at the time of such agreement that the exercise of this authority by the War Production Board was not to establish a precedent for the exercise of similar authority by the Board with regard to other non-foods essential to the food program in the absence of express concurrence of the War Food Administration. (attention is directed to the facts of the Administration's authority to ration farm machinery and equipment. (see footnote 5) Also, it is to be noted that the Administration's Priorities Regulations are not made applicable to non-foods.)

3. Containers: It was originally recommended that the Containers Division of the War Production Board not be transferred to Agriculture (see Report of Interdepartmental Transfer Committee of January 6, 1943). The transfer was not made. Nine orders of this Division pertinent to the food program are presently in effect. They are:

1. Conservation Order M-81, February 18, 1943, as amended June 11, 1943 (8 F.R. 7899): The order limits the manufacture, sale, delivery and use of containers made of tinplate, terneplate, blackplate or waste except on certified purchase orders. The order specified the products permitted to be canned, packing quotas for those commodities, the size of the cans, and the kind of plate permitted for the manufacture of cans. The restrictions of the order do not apply to the use of open top sanitary tinplate cans used in packing "foods" listed on Schedules I and II attached to the order, provided the packer has set aside the full amount of such products to meet governmental requirements as required by Food Distribution Order No. 22, and orders supplementary thereto.

2. Conservation Order M-104, January 1, 1943, as amended May 17, 1943 (8 F.R. 6596): The order restricts the use of tinplate, terneplate, blackplate, wire, rubber or waste in the manufacture of sealing or covering devices for glass containers, except as permitted according to Schedules I, II, III, and IV attached to the order.

3. Conservation Order M-113, September 30, 1942: Inventories of corrugated and solid fiber boxes, wire-bound boxes and nailed wooden boxes for can manufacturers and canners are not restricted.

4. Conservation Order M-119, September 30, 1942: Due to the shortage in the rubber supply, the use of any rubber product or rubber compound for the manufacture of rubber sealed closures for glass containers is limited.

5. Conservation Order M-200, January 15, 1943: The Order establishes specifications of fluid milk shipping containers

or covers and limits the amount of iron and steel which may be used in the manufacture of these articles. 6/

6. L-103, as amended June 8, 1943, 8 F.R. 7645, and Supplementary Order L-103-a, April 13, 1943: In order to conserve the supply of glass, standardized designs of glass containers and closures are established and inventories of commercial users of glass containers are limited to two carloads or the total amount of their reasonably anticipated requirements for the next 60 days.

7. L-232, as amended April 23, 1943: The order regulates the manufacture and assembling of wooden shipping containers designed for use in packing fresh fruit and vegetables for sale or shipment.

8. L-239, as amended May 8, 1943, (8 F.R. 6345): The order restricts the use of metal and virgin wool pulp in the manufacture of folding and set-up boxes and the use of pulp liners in boxes, except for packaging wet or oily foods or as is otherwise determined by the War Production Board.

9. L-279, June 11, 1943 (8 F.R. 7898): The order requires that manufacturers shall not manufacture any paper shipping sack designed for packaging certain listed commodities; such as, beans, potatoes, rice, flour, sugar, etc., except in any size of more than 100 pounds or in any of the sizes specified in the order for particular commodities.

10. P-140, as amended May 28, 1943, 8 F.R. 7194: The order assigns preference ratings to deliveries of shipping containers or parts for uses specified in attached lists some of which uses are for the packing of agricultural commodities.

Closely related to the problem of food containers are two orders issued by the Tin and Lead Division of the War Production Board. Conservation Order M-43, January 9, 1943, as amended May 25, 1943 (8 F.R. 6923) limits the use of tin and pig tin in the manufacture of certain articles. The purchase, inventory and disposition of lead and tin scrap are regulated by Conservation Order M-72 issued September 30, 1942 for the purpose of conserving the supply of tin and lead for defense, for private account, and for exports.

Policies regulating the supply and use of containers for processed foods are so clearly interrelated with policies governing the distribution of the canned commodities that it appears difficult, if not impossible from the viewpoint of practical administration of the food program, to consider them separately. For that reason it appears that the Food Distribution Administration in the exercise of its general jurisdiction over the distribution of processed foods should to some extent dictate policies with respect to the production, use and distribution of containers. Consequently, it has been agreed between

6/ The civilian rationing of fluid milk shipping containers is presently a matter within the jurisdiction of the Food Production Administration.

representatives of the two agencies that a representative of the War Food Administration would be designated to serve as Administrator of that portion of Conservation Order M-81 which relates to "food" containers. Schedules I and II attached to the Order specify those fruits, vegetables and meats which are permitted to be packed in cans; packing quotas, sizes of cans, and the kind of plate permitted to be used in the manufacture of cans are established. Any appeals from these restrictions will be referred to the Administrator who shall have full authority to grant relief within the limits of available material. Second appeals will be referred to the War Food Administration. Subsequent appeals are to be handled by the Appeals Board of the War Production Board. The War Food Administration is to initiate and prepare amendments or supplements to the Order, insofar as cans for food are concerned, after consultation with a representative of the Containers Division of the War Production Board. This consultation is required for the purpose of assuring consistency in policy between the two agencies. Such amendments or supplements will be issued by the War Production Board, who will also be charged with the responsibility of enforcing it.

Furthermore, an agricultural consultant is to be appointed by the War Food Administrator to serve in connection with the administration of all other orders issued by the Containers Division dealing with containers for "food". This consultant will serve on the Appeals Committee of the Division. The Containers Division will initiate and prepare any new orders and any supplements or amendments to existing orders, all of which will be cleared according to the existing procedure of the War Production Board. However, amendments or supplements to Conservation Order M-104 relating to closures for "food" containers will be cleared and issued in the manner provided for the clearance and issuance of amendments and supplements to Conservation Order M-81. (There is attached hereto as Exhibit N a copy of the agreement between the War Production Board and the Administration of Food Production and Distribution concerning orders dealing with containers for food.)

IX

BEVERAGES and TOBACCO

At the request of the Interdepartmental Transfer Committee, it was determined by the Director of the Budget, on January 8, 1943, that the Beverages and Tobacco Division of the War Production Board should not be transferred to the Department of Agriculture pending further study. Subsequently it was agreed between the two agencies that the entire division should be transferred. Accordingly, the transfer was made by the Assistant Director of the Bureau of the Budget on April 14, 1943, to take effect as of 12:01 a.m., April 18, 1943. (see Exhibit O. (I))

Subsequent to the transfer and in order not to disturb the effective operations of the Beverages and Tobacco Division, the War Food Administration and the War Production Board entered into an arrangement according to which the War Production Board should continue to administer the Division until such time as the Administration is organized in such manner as to be able to take over effective control. By letter of April 17, 1943, the Administrator authorized the Chairman of the War Production Board "to exercise the authority and discretion and to perform the duties which the Administration is authorized to exer-

cise and perform under the provisions of . . . Executive Orders [Nos. 9280, 9322 and 9334] in the following instances:

"1. - The issuance of new orders regulating the processing and distribution of those products normally handled by the Beverages and Tobacco Division, but only when the issuance of such orders is specifically requested by the Administration.

"2. - The issuance of amendments, supplements, and revocations of orders heretofore or hereafter issued by the War Production Board regulating the processing and distribution of these products normally handled by the Beverages and Tobacco Division.

"3. - The administration of any order, amendment, or supplement of the kind described above, including the issuance of interpretations and special rules, regulations, or directions under such order, the allowance or denial of appeals, the granting or particular authorizations, allocations and similar actions." (see Exhibit O (II)).

There is presently in effect only one order administered by the Beverages and Tobacco Division. That is War Production Board Conservation Order M-288, issued March 1, 1943 and amended June 2, 1943, 8 F.R. 7379. The order limits all persons engaged in the manufacture of malt beverages to 93% of the quantity of barley, wheat, rye, or other grain, which has been steeped in water, germinated and dried, and to 93% of the quantity of any syrup derived from malted grain used by them for such purpose during the corresponding base period. Brewers are not to permit their inventories of malted grain or malted grain or malted syrup to exceed at any time 10% of the quantity of each such product used by them in the manufacture of malt beverages during 1942.

X

CONTROL OVER THE IMPORTATION OF "FOOD"

A. PUBLIC PURCHASES OF "FOOD" IN FOREIGN TERRITORIES:

1. Public Foreign Purchases Prior to Executive Order 9280.

In analyzing the manner in which the purchase of "food" abroad and its importation are presently controlled, public purchases, that is, governmental purchases, must be distinguished from private purchases.

The background of control over the public purchase of foreign commodities is as follows: General overall supervision of the economic relations between the Government of the United States and the governments of other allied countries was vested by the President in the Board of Economic Warfare (see Executive Orders 8839, July 30, 1941; 8900, September 15, 1941; and 8982, December 17, 1941). Public acquisition of foreign produced commodities is necessarily within the scope of this authority. The President in January of 1942, gave the Chairman of the War Production Board the broad authority to "exercise general direction over the war procurement and production program." The foreign procurement functions of the Board of Economic Warfare and the overall procurement jurisdiction

of the War Production Board were correlated in the following manner by Executive Order 9128, April 13, 1942:

"1. . . The Board of Economic Warfare is authorized and directed to:

a. Receive and be responsible for executing directives from the Chairman of the War Production Board as to quantities, specifications, delivery time schedule, and priorities of materials and commodities required to be imported for the war production effort and the civilian economy, and determine the policies, plans, procedures, and methods of the several Federal departments, establishments, and agencies with respect to the procurement and production of such materials and commodities, including the financing thereof; and issue such directives, or initiate such proposals in respect thereto as it may deem necessary."

Upon the basis of determinations made by the Food Requirements Committee of the War Production Board as to quantities of food required to be purchased abroad to supplement the domestic supply to meet overall requirements and upon consideration of data as to available shipping space, the Chairman of the War Production Board issued a series of directives to the Board of Economic Warfare relative to the importation of the required quantities of all commodities. By Directive No. 2, Revision No. 1 of June, 1942, the Board of Economic Warfare designated the Commodity Credit Corporation as the sole agency of the Government, with the exception of U. S. Commercial Company, for the negotiation and conclusion of all contracts for the importation of agricultural commodities.7/

2. Public Foreign Purchases Subsequent to Executive Order 9280:

a. Effect of Executive Order 9280 upon existing procedure: Executive Orders Nos. 9280, 9322 and 9334 transfer the responsibility for issuing those directives which were originally issued by the War Production Board to the Board of Economic Warfare under Executive Order 9128, to the War Food Administrator insofar as the importation of "food" is concerned. Directives relating to the importation of "food" for industrial uses are to be issued jointly by the Chairman of the War Production Board and the War Food Administrator. (see Sec. 5 of Executive Order 9280).

7/ Memorandum of Understanding between the Commodity Credit Corporation and Agricultural Marketing Administration, July 30, 1942: "1. . . The Commodity Credit Corporation recognizes that in the administration of Defense Aid and other emergency food supply programs by Agricultural Marketing Administration it may be necessary to buy in foreign countries certain commodities which would be brought into the United States only temporarily or would be used in connection with a wartime emergency food supply program. When such purchases are necessary, the Agricultural Marketing Administration agrees to request that the purchase or contract to purchase be made by the Commodity Credit Corporation and the Commodity Credit Corporation agrees to make such purchases for the Agricultural Marketing Administration whenever necessary, except that specific purchases may with the approval of the Commodity Credit Corporation be made by the Agricultural Marketing Administration."

A question arises as to whether or not the Administrator is required to transact the foreign purchase program through the Board of Economic Warfare or whether he may not work directly through other Federal agencies, - Commodity Credit Corporation, for example. It is suggested that the various Executive Orders involved show an intent on the part of the Executive to localize the economic relationships of allied governments in the Board of Economic Warfare and that by specifically continuing the device for foreign procurement by public purchase provided by Executive Order 9128 in the terms of Executive Order 9280 it was not intended to diminish the authority of the Board of Economic Warfare. That interpretation, however, is subject to the limitation imposed on the jurisdiction of the Board of Economic Warfare by Sec. 1c of Executive Order 9280, which provides that the Administrator may "purchase and procure food for such Federal agencies . . . as he shall determine necessary or desirable, and promulgate policies to govern the purchase and procurement of food by other Federal agencies." Consequently, it would appear that it is not mandatory that the Administrator utilize the Board of Economic Warfare as the exclusive agency through which to negotiate foreign purchases by the Government. It would appear, however, that to the extent to which the Administrator chooses to utilize the facilities of the Board of Economic Warfare by use of directives for the procurement of foods by the Government, that the Board of Economic Warfare would in the execution of those directives have authority to dictate policies.

Existing methods for the procurement of food are to remain in statu quo until superseded by the Administrator in the exercise of his authority under Executive Orders Nos. 9280, 9322, and 9334. (see Section 14 of Executive Order 9280). Consequently, the present status of the Government's foreign procurement program can be determined only by reviewing action taken by the Secretary in regard thereto since December 5, 1942.

b. Interdepartmental organization to effect the foreign public purchase program: In the first place, the Secretary provided in Memorandum No. 1054, Supp. 2, January 22, 1943, that Commodity Credit Corporation would be responsible for:

> "The administration of programs relating to the foreign purchase or importation of food and food facilities, including the preparation of directives, in accordance with the recommendations of the Committee on Foreign Purchase and Importation, to be issued to the Board of Economic Warfare by the Secretary, or by the Chairman of the War Production Board and the Secretary jointly. . ."

The President of Commodity Credit Corporation was designated as Chairman of the Committee on Foreign Purchase and Importation. This Committee is to assemble data submitted by the Requirements and Allocations Control of Food Distribution Administration as to food requirements for all purposes as correlated with domestic supply estimates (Director's Memo. No. 2, January 13, 1943); with information reported by Commodity Credit Corporation as to visible and prospective supplies that may be available from foreign sources for the purpose of recommending to the Administrator certain foreign purchase programs. "All public purchase programs approved by the Committee on Foreign Purchases and Importation shall be reported to the Division of Stockpiling and Transportation of War Production Board for its records, and no public

purchase program shall be undertaken of food commodities for import that results in a requirement for shipping in excess of shipping quotas and priorities established" jointly between the Interdepartmental Shipping Priorities Advisory Committee and the Committee on Foreign Purchase and Importation (see as Exhibit P. the Memorandum of Agreement between those two committees).

If it is determined by the Committee that the commodities required to be imported shall be acquired by public purchases, it must necessarily be guided by the agreement of February 11, 1943, between the Board of Economic Warfare and the Department of Agriculture as to the appropriate agency to make the purchase (Exhibit Q.). According to that agreement the Commodity Credit Corporation will negotiate and execute all purchase contracts with respect to spot offerings of food or food facilities from foreign sources.8/ All other purchases are to be negotiated by the Board of Economic Warfare for and on behalf of Commodity Credit Corporation who shall execute the contract, accept delivery and disburse funds under the contract. In those instances where the Board of Economic Warfare is the proper agency to negotiate the contract the Committee is to make recommendations to that effect to the Commodity Credit Corporation, upon which Commodity Credit Corporation is to prepare directives with regard thereto to be issued to the Board of Economic Warfare by the Administrator. (see Memorandum No. 1054, Supp. 2, January 22, 1943). If the contemplated foreign purchase of a commodity, subject to be used industrially, is of such a nature as to require that the purchase contract be negotiated by the Board of Economic Warfare (according to the Agreement of February 11, 1943, between the Board of Economic Warfare and the Department of Agriculture) the Directive to the Board of Economic Warfare will be issued jointly by the Food Administrator and the Chairman of the War Production Board. Clearly, of course, the War Production Board has no jurisdiction (except that all foreign purchase programs approved by the Committee on Foreign Purchase and Importation must be reported to the Division of Stockpiling and Transportation of the War Production Board. see Memo. of Agreement between Director of Division of Stockpiling and Transportation, War Production Board and the President of Commodity Credit Corporation, Department of Agriculture, Exhibit P.) over spot purchases of "foods" made abroad by the Commodity Credit Corporation although those "foods" may ultimately serve inedible as well as edible purposes.9/

8/ Some question has arisen as to the intended meaning of the term "spot purchases." For example, does a purchase contract wherein delivery of the goods is to be made six months later constitute a spot purchase?

9/ On May 13, 1942, a Memorandum of Understanding was entered into between representatives of the U. S. Department of Agriculture, the Board of Economic Warfare, the War Production Board and the Maritime Commission on the one hand and representatives of the British Ministry of Food on the other hand with respect to arrangements for the purchase of fats and oils and oilseeds by governmental agencies of the United States and the United Kingdom in overseas territories. It was therein agreed as follows:

"1. Division of purchases -

It is agreed that the United States will be the exclusive purchaser of the following:

(a) All oilseeds and oils and fats in the North and South American continents, including the Caribbean Islands with the exception of animal fats in Argentina and Urugray.

B. PRIVATE PURCHASES OF "FOOD" IN FOREIGN TERRITORIES:

1. War Production Board General Import Order M-63.

Foreign acquisitions that are not made through public purchase are controlled through General Import Order M-63, as amended May 14, 1943, and existing Supplements thereto issued and administered by the War Production Board. The purpose of the order is to take the best advantage of available shipping space by requiring that commodities be imported in the order of their importance. The order provides that no person, unless authorized in writing by the Director General of Operations, War Production Board, shall import, purchase for import, offer to purchase for import, receive or offer to receive on consignment for import, or make any contract or other arrangement for the importation of commodities which are from time to time made subject to the order. There is attached as Exhibit R. a schedule of all commodities which, since Executive Orders Nos. 9280, 9322, and 9334 are under the jurisdiction of the Administrator, and which appear on Lists I, II, and III of Order M-63, as revised May 14, 1943, with a summary statement of the regulations applicable to each particular list.

2. The War Food Administration and the War Production Board General Import Order M-63.

Policies regarding import requirements must necessarily depend upon estimates of overall food requirements correlated with estimates of prospective domestic supplies. The advice and guidance of the Administrator would appear essential to the proper administration of War Production Order M-63 insofar as its administration depends upon the determination of amounts of "food" required to be imported and of the relative importance in the food program of the various commodities involved.

As has been seen, authority to supervise programs relating to foreign purchases and importations was delegated to Commodity Credit Corporation by Memorandum No. 1054, Supp. 2. However, it has been agreed between the Food Distribution Administration and Commodity Credit Corporation as follows:

> "5: Because the administration of General Import Order M-63 determines the distribution of the import business among importers and dealers, the allocation work of the Food Distribution Administration will be facilitated if the administration of the order is placed in that agency. However, it is recognized that the

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9/ continued:

(b) Copra in Tahiti and all Free French Pacific islands.
(c) All oilseeds and oils and fats in Portuguese Africa, Spanish Africa and Liberia.

It is agreed that the United Kingdom will be the exclusive purchaser of the following:

(d) All animal fats in Argentina and Uruguay
(e) All oilseeds and oils and fats in British Empire countries, with the exception of territory specified in 1 (a)
(f) All oilseeds and oils and fats in the Belgian Congo
(g) All oilseeds and oils and fats in Free French Africa

It is understood that Commodity Credit Corporation has been operating under its terms in recent purchases.

negotiations and operation of public purchase programs is directly influenced by the impact on foreign markets of the operation of General Import Order M-63, and the Food Distribution Administration agrees to adjust its administration of the Order to conform to the requirements of public purchase programs as these requirements are described by the Commodity Credit Corporation." . . .

C. THE WAR SHIPPING ADMINISTRATION:

In order to effectively utilize United States shipping, the President established the War Shipping Administration by Executive Order 9054, February 7, 1942, and provided that:

"6 . . . With respect to the overseas transportation of cargoes essential to the war production effort and the civilian economy, the Administrator shall be guided by schedules transmitted to him by the Chairman of War Production Board prescribing the priority of movement of such commodities and materials."

War Production Board has placed some 500 items of import from all parts of the world on an emergency shipping priority list. The War Shipping Administration has agreed to limit cargoes on ships under its control to the emergency list. All ships belonging to belligerent United Nations are affected. Neutral ships which are not under complete control of the War Shipping Administration may carry only such cargoes as conform to the regulations of General Import Order M-63, if the cargo is to be legally imported into the United States.

Many items of priority cargo are now within the exclusive or partial jurisdiction of the War Food Administrator. Section 5 of Executive Order 9280 provides that schedules of priorities for the importation by overseas transportation of "food" for human and animal consumption shall be issued to the War Shipping Administration by the Secretary and that those schedules relating to the transportation of "food" for industrial uses shall be issued jointly by the Secretary and the Chairman of War Production Board. The Secretary authorized the Chairman of the Committee on Foreign Purchase and Importation (Memo. No. 1054, Supp. 2), to prepare such schedules of priorities, to represent him in integrating those schedules with schedules prepared by the War Production Board and to arrange with representatives of the War Production Board for the transmission of overall schedules of priorities to the War Shipping Administration. To facilitate the preparation of such schedules it was agreed between the Committee on Foreign Purchase and Importation and the Interdepartmental Shipping Priorities Advisory Committee, of which the Director of the Division of Stockpiling and Transportation, War Production Board, is Chairman, that existing schedules of shipping priorities already established by the latter Committee would remain effective until revised by joint action of the two committees (see Exhibit P).

XI

INTERRELATED JURISDICTION OF THE OFFICE OF PRICE ADMINISTRATION AND THE WAR FOOD ADMINISTRATION

The authority of the Office of Price Administration to establish maximum prices for agricultural commodities and processed foods and to provide for the civilian rationing of food is so closely interrelated with the authority of the War Food Administration to direct the Nation's food program that neither agency can function in its own field without affecting the operations of the other. The manner in which their respective functions are correlated is as follows:

A. PRICE CEILINGS:

The powers and functions of the Office of Price Administration to fix prices were extended and given congressional sanction by the Emergency Price Control Act of 1942 (Public Law 421, 56 Stat. 23).10/ In this act Congress provided that the Price Administrator should "by regulation or order establish such maximum price or maximum prices as in his judgment will be generally fair and equitable." However, the Administrator is required to obtain the approval of the Secretary of Agriculture prior to the establishment of maximum prices for any agricultural commodities (Sec. 3.e.). The President may "transfer any of the powers and functions conferred by [the Act] upon the Office of Price Administration with respect to a particular commodity or commodities to any other department or agency of the Government having other functions relating to such commodity or commodities." (Sec. 204(b)). Sec. 2 of Public Law 729, an Act to amend the Emergency Price Control Act of 1942, authorizes the President to "Promulgate such regulations as may be necessary and proper to carry out any of the provisions of the Act." In the exercise of these prerogatives the President, by Executive Order 9250, October 3, 1942, providing for the stabilizing of the National Economy, provided as follows:

"TITLE IV

"1. The prices of agricultural commodities and of commodities manufactured or processed in whole or in substantial part from any agricultural commodity shall be stabilized, so far as practicable, on the basis of levels which existed on September 15, 1942, and in compliance with the Act of October 2, 1942.

. . . . . .

10/ The Office of Price Administration and Civilian Supply established by Executive Order 8734 on April 11, 1941, was re-named Office of Price Administration by Executive Order 8875, August 28, 1941. Sec. 206 of the Emergency Price Control Act of 1942 provides "Any price schedule establishing a maximum price or maximum prices, issued by the Administrator of the Office of Price Administration and Civilian Supply, prior to the date upon which the Administration provided for by Sec. 201 of this Act takes office, shall, upon such date, have the same effect as if issued under Sec. 2 of this Act until such price schedule is superseded by action taken pursuant to such Section 2."

"3. . . The price of agricultural commodities shall be established and maintained or adjusted jointly by the Secretary of Agriculture and the Price Administrator; and any disagreement between them shall be resolved by the Director. The price of any commodity manufactured or processed in whole or in substantial part from any agriculture commodity shall be established or maintained by the Price Administrator, in the same administrative manner provided for under the Emergency Price Control Act of 1942.

By Executive Order 9334, the authority of the Secretary of Agriculture under Title IV, Section 3 of Executive Order 9250 was specifically assigned to the War Food Administration. A distinction is made between raw agricultural commodities and commodities manufactured in whole or in part from agricultural commodities, that is, processed foods, insofar as the applicable procedures for the establishment of price ceilings for the two types of commodities are concerned. As to what is an "agricultural commodity" for the purposes of the Price Control Act of 1942 see the Opinion of the Solicitor No. 4434, August 22, 1942. Initial joint action by the two departments is required in the case of raw agricultural commodities. However, with regard to processed foods, the Price Administrator may or may not be required to get the approval of the War Food Administrator before taking action upon a proposed price fixing program, depending upon the "administrative manner provided for in the Emergency Price Control Act of 1942", referred to in Sec. 3, Title IV of Executive Order 9250, set out above. Provision is made in the Act for the fixing of prices for agricultural commodities and for "commodities processed or manufactured in whole or in substantial part from any agricultural commodities." Subsection (e) of Sec. 3 of the Act provides:

"Notwithstanding any other provision of this or any other law, no action shall be taken under this Act by the Administrator or any other person with respect to any agricultural commodity without the prior approval of the Secretary of Agriculture. . . "

Nothing is said therein which would require the Price Administrator to obtain the approval of the Secretary at any time with regard to ceiling prices on processed foods. Consequently, the only interpretation applicable to the provisions of Executive Order 9250 quoted above, requires a finding that thus far the President has not exercised his prerogative to delegate authority to the Secretary or to the War Food Administrator to act jointly with the Price Administrator in fixing prices for processed foods. However, in order to assure a close working relationship between the departments on all matters affecting food prices it was agreed between the Secretary and the Price Administrator as follows:

"(1) The Office of Price Administration will notify the Secretary of any contemplated price ceiling on processed commodities which it is believed will affect the procurement, production or subsidy operations of the Department.

"(2) The Department of Agriculture will notify the Price Administrator of any contemplated agreement, order or price support program which it believes will require a price ceiling adjustment.

"(3) If any program referred to above requires a subsidy to maintain the existing price ceiling the nature of such subsidy will be agreed upon jointly by the Secretary and the Price Administrator.

"(4) The Department's hearings with respect to Producer's prices for fluid milk may be followed by Office of Price Administration hearings to determine the extent to which handlers' margins are affected where producers' prices directly affect price ceilings on wholesale and retail fluid milk and cream.

Any disagreement between the two agencies as to the above matter is to be referred to the Economic Stabilization Director for final adjustment. In any instance where the agency initiating any one of the above programs is of the opinion that its proposed action will not affect programs of the other agency a statement to that effect is to be included in its docket. A copy of the Memorandum of Understanding between the Department of Agriculture and the Office of Price Administration relative to Farm and Food Prices is attached hereto as Exhibit S.

B. FOOD RATIONING:

1. CONTROL OVER FOOD RATIONING PRIOR TO EXECUTIVE ORDER 9280:

a. Delegations of Authority to Office of Price Administration by War Production Board:

Office of Price Administration's original authority with respect to the rationing of food stems from War Production Board Directive No. 1, issued January 24, 1942. The Office of Price Administration was authorized by virtue of this Directive to exercise rationing control over "(1) the sale, transfer or other disposition of products by any person who sells at retail to any person, and (2) the sale, transfer, or other disposition of products by any person to an ultimate consumer." An "ultimate consumer" is one who acquires products for the satisfaction of personal needs, as distinguished from one who acquires products for business purposes. The acquisition of commodities by the military forces and Government agencies for export was not made subject to the rationing control of the Office of Price Administration. The statutory authority upon which this Directive was based is the basic priorities law, Section 2(a) of the Act of June 28, 1940, as amended, which appears to be the source of rationing power as well as priorities power. Prior to Executive Order 9280, the War Production Board was vested with all rationing authority under the provisions of the various Executive Orders defining the Board's powers. The authority of the Office of Price Administration to ration specific commodities is derived only by virtue of special grants of power from the War Production Board and, since Executive Orders 9280, 9322 and 9334, the War Food Administration.11/ By Executive Order 9125, April 7, 1942, the

11/ Substantial relief to dealers whose commodities are subjected to rationing is given in Public Law 547, 77th Congress, May 11, 1942. This law adds Section 5h to the Reconstruction Finance Corporation Act and authorizes the Reconstruction Finance Corporation to purchase or make loans upon the security of certain articles or commodities which are subjected to rationing control. The object is of course to give financial aid to persons who have to carry stock they are not permitted to sell. Relief is limited to persons who cannot dispose of their stock within six months and whose business for the most part consists in dealing with the rationed commodity.

President substantiated this delegation of authority by the War Production Board to the Office of Price Administration.

War Production Board subsequent to the issuance of Directive No. 1, specifically authorized the Office of Price Administration to ration sugar (Directive 1-E, April 22, 1942), farm machinery and equipment[12] (Directive 1-K, September 12, 1942), meat[13] (Directive 1-M, September 12, 1942), coffee (Directive 1-R, November 20, 1942), and fluid milk shipping containers, covers and farm fencing (Directive 1-P, October 30, 1942) and to ration materials in Puerto Rico and the Virgin Islands (Directive 1-J, October 27, 1942), and in the Panama Canal Zone (Directive 1-L, September 10, 1942).

b. Exercise of Rationing Authority by Office of Price Administration:

By Administrative Orders Nos. 28, September 15, 1942, and 30, November 11, 1942, the Office of Price Administration delegated to the Secretary of Agriculture its authority with respect to the civilian rationing of farm machinery and equipment, fluid milk shipping containers and covers and farm fencing. The Secretary delegated responsibility for the exercise of rationing control over these commodities to the Special War Board Assistant. After Executive Order 9280, this rationing authority was reassigned to the Food Production Administration. (see Footnote 5) On April 21, 1942, the Office of Price Administration inaugurated a sugar rationing program (Rationing Order No. 3), and on October 1, 1942, slaughterers were restricted to the sale and delivery of specified quotas of meat for designated periods by Office of Price Administration Restriction Order No. 1.[14] Coffee was rationed as of November 20, 1942, by the issuance of Rationing Order No. 12. This in substance is the status of the food rationing program as it stood on December 5, 1942, when the Secretary of Agriculture took over the Nation's food program.

12/ "Farm machinery and equipment" means agricultural machinery, mechanical equipment and implements used for the production or care of crops, livestock, livestock products, or other products on a farm (or elsewhere in the case of poultry), including all attachments used in conjunction with farm machinery and equipment, irrigation and drainage equipment (except tile) horseshoes, horseshoe nails, harness hardware; but excluding repair parts, and also excluding all of the following: automobiles, trucks, tracklaying type tractors, equipment ordered by U. S. Department of Agriculture or other U. S. Government agencies, building and repairs thereto, fencing, poultry nettings and wire, wire fencing, bale ties or straps, oil well casing and water pipe, nails, and sundry hardware.

13/ "Meat" means:
"(1) the dressed carcasses of cattle, calves, sheep, lambs, and swine and any processed or unprocessed edible part thereof,
"(2) Sausage, scrapple, souse, and other similar products.
"(3) Trimmings and offal."

14/ Deliveries of canned meats, sausage, scrapple, souse, offal, oils, lards, rendered fats, raw leaf, casings, by-products not ordinarily used for human consumption, and skins of swine when prepared for use in leather, glue and gelatin were not made subject to the provisions of Restriction Order No. 1.

2. PROVISIONS OF EXECUTIVE ORDER 9280 WITH REGARD TO FOOD RATIONING:

Section 4 of Executive Order 9280 provides as follows:

"The Secretary, after determining the need and the amount of food available for civilian rationing, shall through the Office of Price Administration, exercise the priorities and allocation powers conferred upon him by this Executive Order for civilian rationing, with respect to (a) the sale, transfer, or other disposition of food by any person who sells at retail to any person, and (b) the sale, transfer, or other disposition of food by any person to an ultimate consumer, as is currently provided for in War Production Board Directive No. 1, dated January 24, 1942, and existing supplements thereto; and with respect to (c) the sale, transfer, or other disposition of food by any person at such other levels of distribution as he may determine; and in the administration or enforcement of any such priorities or allocation authority for civilian rationing, the Office of Price Administration, subject to the provisions of this Executive Order, is hereby authorized to exercise all the functions, duties, powers, authority, or discretion conferred upon the Price Administrator by Section 3 of Executive Order 9125 of April 7, 1942. The Secretary before determining the time, extent and other conditions of civilian rationing, shall consult with the Price Administrator."

The then existing authority of the Office of Price Administration to exercise rationing control over foods as delegated to that office by the War Production Board was to remain in full force and effect until superseded by action of the Secretary (see Section 14, Executive Order 9280).

3. RATIONING OF FOOD SUBSEQUENT TO EXECUTIVE ORDER 9280:

a. Food Directives Nos. 1 and 3: On January 16, 1943, the Secretary, by Food Directive No. 1, extended the Office of Price Administration's authority under War Production Board Directive No. 1 and existing supplements to include the authority to control the sale, transfer, delivery and other disposition of processed foods[15] by any person to any person. On February 9, 1943, the Office of Price Administration announced that processed foods would be rationed by what is called a "point" system. Food Directive No. 3, issued by the Secretary on February 13, 1943, gave the Office of Price Administration complete responsibility for directing the flow of "rationed foods" from the time such foods are placed in form for distribution until they reach the consumer. War Production Board Directives Nos. 1, 1-E, 1-M, 1-R and Food Directive No. 1 were expressly superseded but "the existing authority of the Office of Price Administration with respect to control over sugar, meat, coffee and processed

15/ "Processed Foods" includes all (1) fruit, fruit juices, vegetables, vegetable juices, soups, baby foods, fish, shellfish, and milk packed in hermetically sealed containers of any type and sterilized by use of heat. (2) All jams, jellies, preserves, fruit butters, pickles, and relishes. (3) All frozen fruits and vegetables. (4) All dried and dehydrated fruits and vegetables. (5) All combinations of the foregoing with meat. (6) All combinations of any of the foregoing.

foods and with respect to control over all material in Puerto Rico[16] and the Virgin Islands, the Panama Canal Zone (insofar as such authority relates to control over food) "were in all respects continued in full force and effect."

b. Food Directive No. 4: On February 27, 1943, the Secretary by Food Directive No. 4 to the Office of Price Administration declared that all foods in Alaska and Hawaii "were to be rationed food for the purpose of Food Directive No. 3." "Rationed Food" as the term is used in Food Directive No. 3 means "any food the consumer rationing of which has been authorized by the War Production Board or by the Secretary, or which hereafter may be directed by the Secretary of Agriculture." The effect of Directive No. 4 is to give the Office of Price Administration the power to inaugurate rationing programs for any or all food products in those Territories as it may consider necessary. This is much broader than the authority heretofore vested in the Office of Price Administration to ration food in the United States and the other Territories subject to rationing control. According to Food Directive No. 3 and to the Agreement of February 12, 1943, (Exhibit U.) between the Office of Price Administration and the Department of Agriculture it is the War Food Administrator who directs the initiation of a rationing program of particular commodities upon a determination by him that civilian rationing of those commodities is necessary.

c. Food Directives Nos. 5, 6, 7, and 8: Food Directive No. 5, issued February 20, 1943, placed all processed foods (see footnote 15) under the rationing authority of the Office of Price Administration. This Directive was amended on March 20, 1943 by adding to the list of processed foods subject to be rationed all fish or shellfish, and "fish roe, including caviar, and any edible product containing more than 20 percent by weight of any of these items, packed in hermetically sealed containers of any type." On March 20, 1942, Food Directives Nos. 6 and 7 were issued. By the former the Office of Price Administration was authorized to exercise its rationing powers with respect to all fats and oils and cheese. The terms "fats and oils" mean "all glycerides of the higher fatty acids, liquid or solid, and includes without limitation, all animal, marine animal, vegetable fats and oils and butter." Directive No. 7 gave the Office of Price Administration authority to ration meat, which means and includes "the carcass or any edible part of the carcass of cattle, calves, sheep, lambs, or swine, and any other edible product containing more than 20 percent by weight of any of those items." This Directive supersedes the delegation of authority to Office of Price Administration by War Production Board Directive No. 1-M.[17] (Pursuant to its authority under War Production Board Directives 1 and 1-M, the Office of Price Administration had issued on October 1, 1942, Restriction Order No. 1, restricting slaughterers in their deliveries to designated quotas of controlled

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16/ Restriction Order 4, issued March 8, 1943 by The Director of Office of Price Administration for Puerto Rico restricted the transfer of shortening, lard, and rice from retailer to consumer within established quotas. The restrictions in the order apply only to Puerto Rico.

17/ Restriction Order 5, issued by Office of Price Administration on March 21, 1943, provided that during the period from 12:01 a. m. on March 22, 1943, to 12:01 a. m. on March 29, 1943 no person could transfer and no person could acquire any rationed fats and oils including butter, cooking or salad oil, glycerides of the higher fatty acids, lard, margarine and other edible fats.

meats. "Controlled Meats" include "the dressed carcasses of cattle, calves, sheep, lambs, and swine and any processed or unprocessed edible part, cut or trimmings thereof. . . " On April 1, 1943, the functions of administering and enforcing the provisions of Restriction Order 1 were transferred from Office of Price Administration to the Department of Agriculture (8 F. R. 4151). The Order was amended accordingly by the Secretary of Agriculture on the same day and again by the Acting War Food Administrator on May 26, 1943 (8 F. R. 7006). (There is attached hereto as Exhibit T. a resumé of all Ration orders issued by the Office of Price Administration pursuant to its authority to administer the rationing of food.)) On May 26, 1943, (8 F. R. 7093) the Acting War Food Administrator issued Food Directive No. 8 which supplemented the powers heretofore granted the Office of Price Administration "to undertake, administer and enforce the rationing program with respect to sugar." The Office of Price Administration is specifically authorized thereby to ration sugar used in the manufacture of any imported product or in the manufacture of any ingredient of such product. An "imported product" within the meaning of the Directive is any product manufactured outside the United States and brought into any of the 48 states or the District of Columbia in any manner.

4. AGREEMENT BETWEEN OFFICE OF PRICE ADMINISTRATION AND DEPARTMENT OF AGRICULTURE WITH REGARD TO THE RATIONING OF FOOD:

An agreement defining a clear division of authority between the Office of Price Administration and the War Food Administration in the rationing of food was entered into on February 12, 1943. It was therein recognized as the exclusive responsibility of the War Food Administration to ascertain the supply of food available for civilian rationing as well as the need for, the time and the extent of such rationing. The Office of Price Administration is to establish the value of coupons used in the point rationing system and will have responsibility for changing those values as the occasion requires. The method of rationing to be employed, rationing techniques and procedures will rest with the Office of Price Administration. A Food Rationing Policy Committee was established and is to consist of representatives of the Food Production Administration, Food Distribution Administration, and the Rationing Division of the Office of Price Administration. The Committee is to consider "(a) handling of publicity, "(b) desirability and feasibility of differential rations, "(c) effective handling of industrial relations, and "(d) other coordinate matters." (A copy of the agreement as to the respective responsibilities of the War Food Administration and the Office of Price Administration in rationing of food is attached hereto as Exhibit U.)

17/ (continued)
Ration Order No. 16 was issued by Office of Price Administration on March 20, 1943 [8 F. R. 3591] and provided for the rationing of meats, cheese, canned fish, butter, oleomargarine, and fats and oils.

EXHIBIT A.

EXECUTIVE ORDER

9280

DELEGATED AUTHORITY WITH RESPECT TO
THE NATION'S FOOD PROGRAM

By virtue of the authority vested in me by the Constitution and the statutes of the United States, as President of the United States and Commander in Chief of the Army and Navy, and in order to assure an adequate supply and efficient distribution of food to meet war and essential civilian needs, it is hereby ordered as follows:

1. The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized and directed to assume full responsibility for and control over the Nation's food program. In exercising such authority, he shall:

a. Ascertain and determine the direct and indirect military, other governmental, civilian, and foreign requirements for food, both for human and animal consumption and for industrial uses.

b. Formulate and carry out a program designed to furnish a supply of food adequate to meet such requirements, including the allocation of the agricultural productive resources of the Nation for this purpose.

c. Assign food priorities and make allocations of food for human and animal consumption to governmental agencies and for private account, for direct and indirect military, other governmental, civilian, and foreign needs.

d. Take all appropriate steps to insure the efficient and proper distribution of the available supply of food.

e. Purchase and procure food for such Federal agencies, and to such extent, as he shall determine necessary or desirable, and promulgate policies to govern the purchase and procurement of food by all other Federal agencies: Provided, That nothing in this subsection shall limit the authority of the armed forces to purchase or procure food outside the United States or in any theater of war as such purchase and procurement shall be required by military or naval operations, or the authority of any other authorized agency to purchase or procure food outside the United States for rehabilitation or relief purposes abroad. Existing methods for the purchase and procurement of food by other Federal agencies shall continue until otherwise determined by the Secretary pursuant to this Executive Order.

2. The Secretary shall recommend to the Chairman of the War Production Board the amounts and types of non-food materials, supplies, and equipment necessary for carrying out the food program. Following consideration of these recommendations, the Chairman of the War Production Board shall allocate stated amounts of non-food materials, supplies, and equipment to the Secretary for carrying out the food program; and the War Production Board, through its priorities and allocation powers, shall direct the use of such materials, supplies, and equipment for such specific purposes as the Secretary may determine.

3. Whenever the available supply of any food is insufficient to meet both food and industrial needs, the Chairman of the War Production Board and the Secretary shall jointly determine the division to be made of the available supply of such food. In the event of any difference of view between the Chairman of the War Production Board and the Secretary, such difference shall be submitted for final determination to the President or to such agent or agency as the President may designate.

4. The Secretary, after determining the need and the amount of food available for civilian rationing, shall, through the Office of Price Administration, exercise the priorities and allocation powers conferred upon him by this Executive Order for civilian rationing, with respect to (a) sale, transfer, or other disposition of food by any person who sells at retail to any person, and (b) the sale, transfer or other disposition of food by any person to an ultimate consumer, as is currently provided for in War Production Board Directive No. 1, dated January 24, 1942, and existing supplements thereto; and with respect to (c) the sale, transfer, or other disposition of food by any person at such other levels of distribution as he may determine; and in the administration or enforcement of any such priorities or allocation authority for civilian rationing, the Office of Price Administration, subject to the provisions of this Executive Order, is hereby authorized to exercise all of the functions, duties, powers, authority, or discretion conferred upon the Price Administrator by Section 3 of Executive Order 9125 of April 7, 1942. The Secretary, before determining the time, extent, and other conditions of civilian rationing shall consult with the Price Administrator.

5. In discharging his responsibility under this Executive Order with respect to the exportation of food, the Secretary shall collaborate with the other agencies concerned with the foreign aspects of the food program for the feeding of the peoples in foreign countries and the production and stockpiling of food for use abroad. With respect to the issuance of the directives for the importation of food heretofore issued to the Board of Economic Warfare by the Chairman of the War Production Board under Executive Order No. 9128 of April 13, 1942, the Secretary shall issue those directives which relate to the importation of food for human and animal consumption, and the Chairman of the War Production Board and the Secretary shall jointly issue those directives which relate to the importation of food for industrial uses. The Chairman of the War Production Board shall continue to issue all other directives which relate to the importation of materials, supplies, and equipment required for the war production program and the civilian economy. Schedules of priorities heretofore prepared and issued by the Chairman of the War Production Board under Executive Order 9054 of February 7, 1942 for the importation by overseas transportation of food for human or animal consumption and for industrial uses shall be similarly issued, and transmitted to the Administrator of War Shipping Administration for his guidance.

6. In discharging his responsibility under this Executive Order the Secretary shall, in the event of a shortage of domestic transportation service, and after consultation with the War Production Board for the purpose of adjusting the relative demands for the movement of food for human or animal consumption and the movement of commodities for other purposes, prepare schedules of priorities for the domestic movement of food, which the Office of Defense Transportation shall take into consideration in determining

traffic movements.

7. (a) To advise and consult with him in carrying out the provisions of this Executive Order, the Secretary shall appoint a committee composed of representatives of the State, War, and Navy Departments, the Office of Lend-Lease Administration, the Board of Economic Warfare, the War Production Board, and such other agencies as the Secretary may determine to be concerned with the food program. The Food Requirements Committee of the War Production Board established by the Chairman of the War Production Board by memorandum dated June 4, 1942 is abolished effective as of the date of appointment of said advisory committee. The Secretary shall receive from the members of such advisory committee estimates of food requirements, and consult with such committee prior to the making of food allocations under Section 1 (c) of this Executive Order. Such committee shall perform such other functions in connection with the food program as the Secretary may determine. The Secretary may, in his discretion, appoint such other advisory committees composed of representatives of governmental or private groups interested in the food program as he deems appropriate.

b. Section 1 of Executive Order No. 9024, dated January 16, 1942, is amended to provide that the Secretary shall be a member of the War Production Board.

8. The Secretary, in carrying out the responsibilities imposed on him by this Executive Order, may, subject to the provisions of this Executive Order, exercise the following powers in addition to the powers heretofore vested in him.

a. The power conferred upon the Department of Agriculture with respect to contracts by Executive Order No. 9023 of January 14, 1942.

b. The power conferred upon the President by Title III of the Second War Powers Act, 1942, insofar as it relates to priorities and allocations of (1) all food for human or animal consumption or for other use in connection with the food program, but excluding that food which has been determined to be available to the War Production Board for industrial purposes pursuant to Section 3 of this Executive Order; (2) those portions of non-food meterials, supplies, and equipment which have been allocated by the War Production Board under Section 2 of this Order for carrying out the food program; (3) any other material or facility, when the Secretary determines that it is necessary, in order to carry out the provisions of this Executive Order, to exercise the priorities or allocation power with respect thereto: Provided, That in order to avoid overlapping and conflicting action, prior to taking action pursuant to item (3) hereof, the Secretary shall inform the Chairman of the War Production Board of the action proposed to be taken, and in the event that the Chairman of the War Production Board shall object, the issue shall be determined by the President or such agent or agency as he may designate. Contracts or oders, relating to the materials and facilities specified in this sub-section, made by the Secretary, or by any other officer or agency of the Government at the Secretary's direction, and subcontracts and suborders which the Secretary shall deem necessary or appropriate to the fulfilment of any such contract or order, are hereby declared to be necessary and appropriate to promote the defense of the United States. The Secretary

may assign priorities with respect to deliveries under any such contract, order, subcontract or suborder, and he may require acceptance of and performance of any such contract, order, subcontract or suborder, in preference to other contracts or orders for the purpose of assuring such priority. Allocations of materials and facilities under this sub-section may be made by the Secretary in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate in the public interest, to promote the national defense, and to carry out the provisions of this Executive Order.

c. The powers under the Act of October 10, 1940 (54 Stat. 1090), as amended by the Act of July 2, 1942 (56 Stat. 467), and the Act of October 16, 1941 (55 Stat. 742), as amended by Title VI of the Second War Powers Act, 1942, heretofore vested in the War Production Board by Executive Order No. 8942 of November 19, 1941, Executive Order No. 9024 of January 16, 1942, and Executive Order No. 9040 of January 24, 1942, with respect to the requisitioning of food for human or animal consumption.

d. The powers of acquisition of property under the Act of July 2, 1917 (40 Stat. 241), as amended by Title II of the Second War Powers Act, 1942.

e. The powers of taking over and operating facilities under Section 120 of the National Defense Act of 1916 (39 Stat. 213) and Section 9 of the Selective Training and Service Act of 1940 (54 Stat. 892).

f. The powers with respect to anti-trust prosecutions vested in the Chairman of the War Production Board by Section 12 of the Act of June 11, 1942, Public Law 603, 77th Congress.

g. The power of inspection and audit of the war contractors (including the power of subpoena) under Title XIII of the Second War Powers Act, 1942.

9. The Secretary is authorized to delegate any or all functions, responsibilities, powers (including the power of subpoena, authorities, or discretions conferred upon him by this Executive Order to such person or persons within the Department of Agriculture as he may designate or appoint for that purpose. The Secretary may, except as otherwise provided herein, delegate to any appropriate Federal, state, or local governmental agency, officer, or employee, in such manner and for such periods of time as he shall deem advisable, the execution of any of the provisions of this Executive Order together with any powers of the Secretary under this Executive Order. To the fullest extent compatible with efficiency the Secretary shall utilize existing facilities and services of other governmental departments and agencies and may accept the services and facilities of any state or local governmental agency in carrying out his responsibilities defined hereunder.

10. As used herein, the term "food" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, but exclusive

of such commodities and products as the Secretary shall determine. For the purposes of this Executive Order, the term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, hemp, flax fiber, and such other agricultural commodities and products as the President may designat.

11. In the event of any difference of view arising between the Secretary and any other officer or agency of the Government, in the administration of the provisions of this Executive Order, such difference of view shall be submitted for final decision to the President or such agent or agency as the President may designate.

12. The personnel, property, records, unexpended balances of appropriations, allocations, and other funds of the War Production Board primarily concerned with the available for, as determined by the Director of the Bureau of the Budget, the discharge of any of the functions, responsibilities, powers, authorities, and discretions that are vested in the Secretary by this Executive Order are here by transferred to the Department of Agriculture. In determining the amounts transferred hereunder, allowance shall be made for the liquidation of obligations previously incurred against such balances of appropriations, allocations, or other funds transferred.

13. The facilitate the effective discharge of the Secretary's responsibility under this Executive Order, the following changes are made within the Department of Agriculture:

a. The Agricultural Conservation and Adjustment Administration (except the Sugar Agency), the Farm Credit Administration, the Farm Security Administration, and their functions, personnel, and property; the functions, personnel, and property of the Division of Farm Management and Costs of the Bureau of Agricultural Economics concerned primarily with the planning of current agricultural production; the functions, personnel, and property of the Office of Agricultural War Relations concerned primarily with the production of food; and the functions, personnel, and property established in or transferred to the Department by this Executive Order that are concerned primarily with the production of food, are consolidated into an agency to be known as the Food Production Administration of the Department of Agriculture. The Food Production Administration shall be under the direction and supervision of a Director of Food Production appointed by the Secretary.

b. The Agricultural Marketing Administration, the Sugar Agency of the Agricultural Conservation and Adjustment Administration, and their functions, personnel, and property; the functions, personnel, and property of the Bureau of Animal Industry of the Agricultural Research Administration concerned primarily with regulatory activities; the functions, personnel, and the property of the Office of Agricultural War Relations concerned primarily with the distribution of food; and the functions personnel and property established in or transferred to the Department of Agriculture by this Executive Order that are concerned primarily with the distribution of food are consolidated into an agency to be known as the Food Distribution Administration of the Department of Agriculture. The Food Distribution Administration shall be under the direction and supervision of a Director of Food Distribution appointed by the Secretary.

c. So much of the unexpended balances of appropriations, allocations, or other funds available (or to be made available) for the use of any agency in the exercise of any function transferred or consolidated by subsections a. and b. of this section or for the use of the head of any agency in the exercise of any function so transferred or consolidated, as the Director of the Bureau of the Budger shall determine, shall be transferred for use in connection with the exercise of the function so transferred or consolidated. In determining the amount to be transferred, the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such balances of appropriations, allocations, or other funds prior to the transfer.

14. Any provision of any Executive Order or proclamation conflicting with this Executive Order is superseded to the extent of such conflict. All prior directives, rules, regulations, orders, and similar instruments heretofore issued by any Federal agency which affect the subject matter of this Executive Order shall continue in full force and effect unless and until withdrawn or superseded by or under the direction of the Secretary under the authority of this Order. Nothing in this Order shall be construed to limit the powers exercised by the Economic Stabilization Director under Executive Order 9250 dated October 3, 1942, as amended. Nothing in this Order shall be construed to limit the power not exercised by the Price Administrator under the Energency Price Control Act of 1942, Public Law 421, 77th Congress, as amended, or the Act of October 2, 1942, Public Law 729, 77th Congress.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE

December 5, 1942

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EXECUTIVE ORDER 9322

CENTRALIZING AND DELEGATING AUTHORITY WITH RESPECT TO THE PRODUCTION AND DISTRIBUTION OF FOOD

By virtue of the authority vested in me by the Constitution and the statutes of the United States, particularly by the First War Powers Act, 1941, as President of the United States and Commander in Chief of the Army and Navy, and in order to assure an adequate supply and efficient distribution of food to meet war and essential civilian needs, it is hereby ordered as follows:

1. The Food Production Administration (except the Farm Credit Administration), the Food Distribution Administration, the Commodity Credit Corporation, and the Extension Service are hereby consolidated within the Department of Agriculture into an Administration of Food Production and Distribution to be under the direction and supervision of an Administrator. The Administrator shall be appointed by the President and shall be directly responsible to him.

2. All of the powers, functions, and duties conferred upon the Secretary of Agriculture by Executive Order No. 9280 dated December 5, 1942, are transferred to and shall be exercised by the Administrator. The Secretary of Agriculture shall, however, continue as Chairman of the Inter-Departmental Committee set up by section 7 (a) of Executive Order No. 9280 1/ to advise the Administrator, and the Administrator shall become a member of such committee. The Secretary of Agriculture shall continue as a member of the War Production Board as provided in section 7b of Executive Order No. 9280. The Secretary of Agriculture shall continue as the American representative on the Combined Food Board.

3. The personnel, property, and records used primarily in the administration of the functions, powers, and duties transferred and consolidated by this order are transferred to the Administrator. So much of the unexpended balances of appropriations, allocations, and other funds available to the Department of Agriculture for the said purposes as the Director of the Bureau of the Budget shall determine shall be transferred to the Administrator for use in connection with the exercise of the functions, powers, and duties so transferred. The authority heretofore vested in the Secretary of Agriculture over personnel of divisions, bureaus, and agencies transferred to and consolidated under the Administrator is vested in the Administrator. The powers in respect to labor and manpower heretofore vested in the Secretary of Agriculture by the orders of the Economic Stabilization Director or the Chairman of the War Man-power Commission are vested in the Administrator. The authority heretofore vested in the Secretary of Agriculture under Title IV of Executive Order 9250 is vested in the Administrator.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE
March 26, 1943

[F. R. Doc. 43 - 4669; Filed, March 26, 1943;
3:45 p.m.]

1/ 7 F. R. 10179

EXHIBIT C

EXECTIVE ORDER NO. 9334

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WAR FOOD ADMINISTRATION

Executive Order No. 9322 of March 26, 1943, entitled "Centralizing and Delegating Authority with Respect to the Production and Distribution of Food," is hereby amended to read as follows:

"By virtue of the authority vested in me by the Constitution and the statutes of the United States, particularly by the First War Powers Act, 1941, as President of the United States and Commander in Chief of the Army and Navy, and in order to assure an adequate supply and efficient distribution of food to neet war and essential civilian needs, it is hereby ordered as follows:

"Section 1. The Food Production Administration (except the Farm Credit Administration), the Food Distribution Administration, the Commodity Credit Corporation, and the Extension Service, together with all their powers, functions, and duties, are hereby consolidated within the Department of Agriculture into a War Food Administration, to be administered under the direction and supervision of a War Food Administrator. The Administrator shall be appointed by the President and shall be directly responsible to him.

"Sec. 2. All powers, functions, and duties of the Secretary of Agriculture (a) under Executive Order No. 9280 of December 5, 1942, (b) under Title IV of Executive Order No. 9250 of October 3, 1942, (c) which relate to labor and manpower under orders of the Economic Stabilization Director or the Chairman of the War Manpower Commission, (d) which related to or which have heretofore been exercised through or in connection with the agencies, including corporations, consolidated by section 1 of this order, and (e) which relate to personnel, property and records transferred by section 3 of this order, are transferred to and shall be exercised and performed by the War Food Administrator (in addition to the powers, fundtions, and duties conferred upon him by Executive Order No. 9328 of April 8, 1943); but the Secretary of Agriculture shall continue as chairman of the inter-departmental committee set up by section 7(a) of Executive Order No. 9280, as a member of the War Production Board as provided in section 7b of Executive Order No. 9280, and as the American representative on the Combined Food Board. The War Food Administrator shall be a member of the said inter-departmental committee, which shall be advisory to him. He shall also be alternate American representative on the Combined Food Board.

"Sec. 3. For use in connection with the exercise or performance of the powers, functions, and duties consolidated and transferred by this order, so much of the unexpended balances of appropriations, allocations, and other funds available to the Department of Agriculture for such purposes, as the Director of the Bureau of the Budget shall determine, and all of the personnel, property, and records used primarily in the administration of such powers, functions and duties, are hereby transferred to the War Food Administration.

"Section 4. In addition to the powers and authority granted by this order, and in order to carry out its purposes, the Secretary of Agriculture and the War Food Administrator, to the extent necessary to enable them to perform their respective duties and functions, shall each have authority to exercise any and all of the powers vested in the other by statute or otherwise; and the exercise of any such power by either of them shall be deemed to be authorized and in accordance with this order, and shall not be subject to challenge by any third party affected by the exercise of the power on the ground that the action taken was within the jurisdiction of the Secretary of Agriculture rather than the War Food Administrator, or vice versa.

"Sec.5. Any provision of any Executive order or proclamation conflicting with this Executive order is superseded to the extent of such conflict. All prior directives, rules, regulations, orders, and similar instruments heretofore issued by any Federal agency relating to matters concerning which authority is vested in the War Food Administrator by this order shall continue in full force and effect unless and until modified or revoked by orders or directives issued by or under the direction of the War Food Administrator pursuant to authority vested in him."

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE

April 19, 1943

EXHIBIT D

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SOLICITOR
WASHINGTON, D. C.

April 24, 1943

To: Secretary of Agriculture and War Food Administrator

From: Robert H. Shields, Solicitor

Subject: Executive Order 9334, amending Exective Order 9322

Executive Order 9334 of April 19, 1943, a copy of which is attached, was prepared jointly by representatives of the Department of Justice, the Bureau of the Budget, the Office of Economic Stabilization, and this office in order to cure certain apparent defects in Executive Order 9322 of March 26, 1943, "Centralizing and Delegating Authority with respect to the Production and Distribution of Food".

Section 1 of the order changes the name of the Administration of Food Production and Distribution, which was created by Executive Order 9322, to "War Food Administration", and places such Administration under the direction and supervision of a "War Food Administrator". In addition, section 1 makes it clear that all powers, functions and duties of the various agencies consolidated -- the Food Production Administration (exculusive of the Farm Credit Administration), the Food Distribution Administration, the Commodity Credit Corporation, and the Extension Service -- are placed in the War Food Administration.

Section 2 of the order, like the original Executive Order 9322, transfers from the Secretary of Agriculture to the War Food Administrator all powers, functions and duties of the Secretary under Executive Order 9280 of December 5, 1942, and under Title IV of Executive Order 9250 of October 3, 1942, and the Secretary's powers, functions and duties with respect to labor and manpower under orders of the Economic Stabilization Director and the Chairman of the War Manpower Commission. Unlike the original Executive Order 9322, however, the order expressly transfers to the War Food Administrator all the Secretary's powers, functions and duties which relate to or which have heretofore been exercised through or in connection with the agencies consolidated into the War Food Administration. Thus, the powers conferred by the Agricultural Adjustment Act of 1938, the Agricultural Marketing Agreement Act of 1937, Section 32 of Public Law No. 320, the Packers and Stockyards Act, 1921, the Smith-Lever (Extension Work) Act, Section 4 of Public Law 147 (the Steagall Amendment) and other acts which have in the past been administered by the agencies now consolidated are vested in and exercisable by the War Food Administrator, rather than the Secretary. On the other hand, remaining vested in and exercisable by the Secretary are all those powers which he has heretofore exercised through or with respect to the Farm Credit Administration, the Forest Service, the Rural Electrification Administration, and the Agricultural Research Administration. The latter part of

section 2 of the order, in providing for the Secretary's continuance as chairman of the inter-departmental food advisory committee, as a member of the War Production Board, and as the American representative on the Combined Food Board, is virtually the same as the latter part of Section 2 of the original Executive Order 9322, except for the designation of the War Food Administrator as alternate American representative on the Combined Food Board.

By section 3 of the order, there are transferred to the War Food Administration the funds, personnel, property and records of the Department used primarily in connection with powers, functions and duties transferred to the War Food Administrator. This means that those funds, personnel, property and records of the staff and service agencies of the Department concerned primarily with the exercise of powers conferred by Executive Order 9280, Title IV of Executive Order 9250, and the labor and manpower orders, and those concerned primarily with powers heretofore exercised by the Secretary through the agencies consolidated into the War Food Administration, are technically part of the War Food Administration. In most cases (the Office of Budget and Finance and the Office of the Solicitor, for example), this means that portions of the staff or service agency constitute technically a part of the War Food Administration, whereas in the case of agencies such as the Office of Agricultural War Relations and the Agricultural Labor Administration, which are exclusively concerned with matters under the supervision of the War Food Administrator, the entire agencies are included in the War Food Administration. Section 3 does not require, however, that the staff and service agencies concerned with matters under the jurisdiction of both the Secretary and the War Food Administrator by physically split or that separate staff and service agencies be established for the War Food Administration. Such staff and service agencies can continue serving all agencies of the Department, including the War Food Administration, although certain of the funds, personnel, property and records of such staff and service agencies may technically constitute a part of the War Food Administration.

Section 4 of the order has no counterpart in the original Executive Order 9322. Its purpose is to prevent any successful challenge, on the ground of lack of authority, of action taken by the Secretary or the War Food Administrator. Accordingly, by this section of the order the Secretary is authorized to exercise, to the extent necessary to enable the performance of his duties and functions, any of the powers otherwise vested in the War Food Administrator. Likewise, the War Food Administrator, to the extent necessary to enable the performance of his duties and functions, is authorized to exercise any of the powers otherwise vested in the Secretary. In order to foreclose attacks upon the validity of action taken by either of the two officials, section 4 specifically further provides that no third person may question the exercise of any such power by either the Secretary or the War Food Administrator.

Section 5 of the order is modeled after Section 14 of Executive Order 9280. By it any previous inconsistent Executive orders or proclamations are superseded and any existing regulations or orders of other Federal agencies touching on matters over which the War Food Administrator has authority are preserved until modified or revoked by action of the War Food Administrator.

Attachment

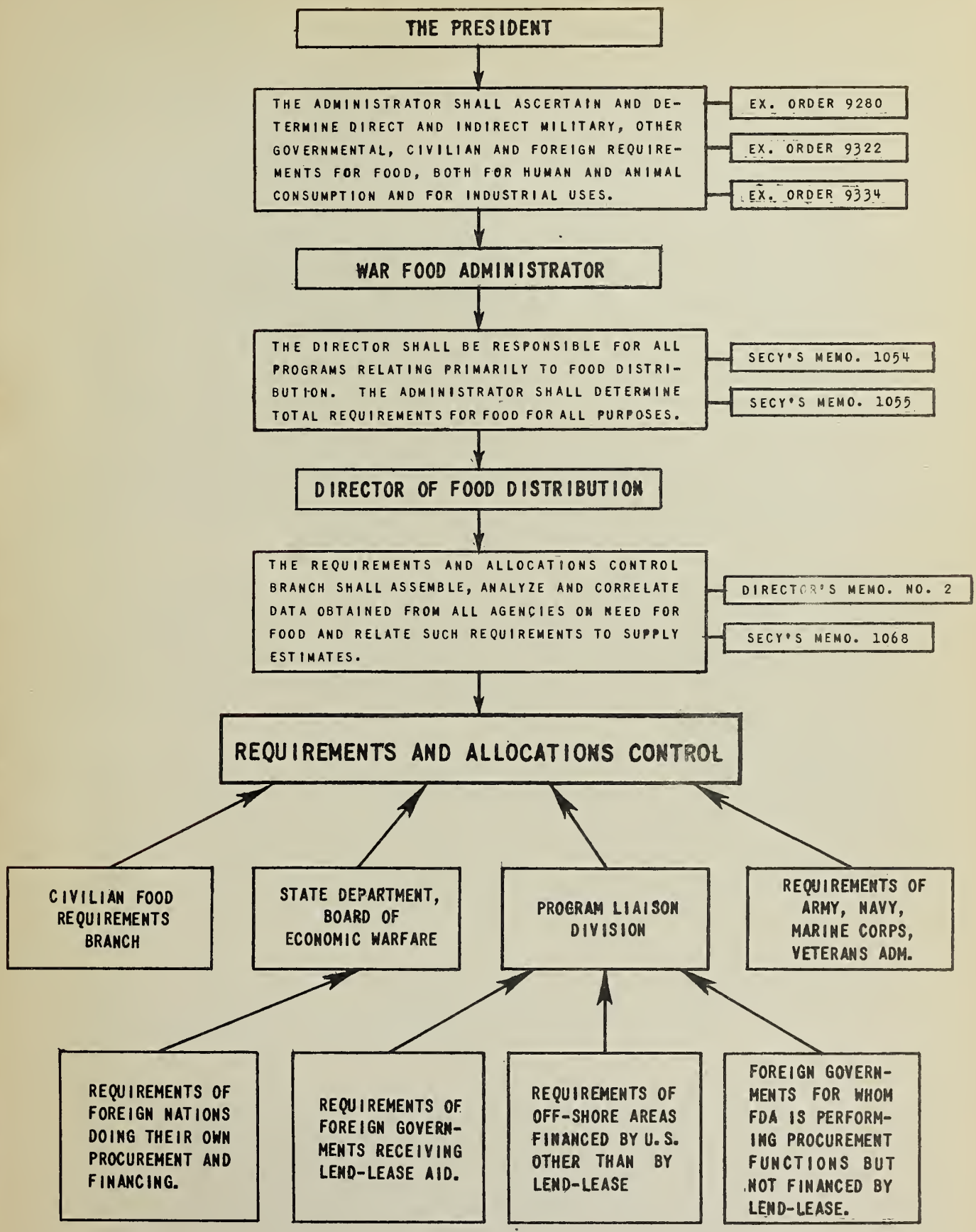
THE PRESIDENT
THE ADMINISTRATOR SHALL ASCERTAIN AND DETERMINE DIRECT AND INDIRECT MILITARY, OTHER GOVERNMENTAL, CIVILIAN AND FOREIGN REQUIREMENTS FOR FOOD, BOTH FOR HUMAN AND ANIMAL CONSUMPTION AND FOR INDUSTRIAL USES.
EX. ORDER 9280
EX. ORDER 9322
EX. ORDER 9334
WAR FOOD ADMINISTRATOR
THE DIRECTOR SHALL BE RESPONSIBLE FOR ALL PROGRAMS RELATING PRIMARILY TO FOOD DISTRIBUTION. THE ADMINISTRATOR SHALL DETERMINE TOTAL REQUIREMENTS FOR FOOD FOR ALL PURPOSES.
SECY'S MEMO. 1054
SECY'S MEMO. 1055
DIRECTOR OF FOOD DISTRIBUTION
THE REQUIREMENTS AND ALLOCATIONS CONTROL BRANCH SHALL ASSEMBLE, ANALYZE AND CORRELATE DATA OBTAINED FROM ALL AGENCIES ON NEED FOR FOOD AND RELATE SUCH REQUIREMENTS TO SUPPLY ESTIMATES.
DIRECTOR'S MEMO. NO. 2
SECY'S MEMO. 1068
REQUIREMENTS AND ALLOCATIONS CONTROL
CIVILIAN FOOD REQUIREMENTS BRANCH
STATE DEPARTMENT, BOARD OF ECONOMIC WARFARE
PROGRAM LIAISON DIVISION
REQUIREMENTS OF ARMY, NAVY, MARINE CORPS, VETERANS ADM.
REQUIREMENTS OF FOREIGN NATIONS DOING THEIR OWN PROCUREMENT AND FINANCING.
REQUIREMENTS OF FOREIGN GOVERNMENTS RECEIVING LEND-LEASE AID.
REQUIREMENTS OF OFF-SHORE AREAS FINANCED BY U.S. OTHER THAN BY LEND-LEASE
FOREIGN GOVERNMENTS FOR WHOM FDA IS PERFORMING PROCUREMENT FUNCTIONS BUT NOT FINANCED BY LEND-LEASE.

EXHIBIT "F"

FOOD PRODUCTION ORDERS

1. Food Production Order 1 is superseded insofar as it affects the Continental United States by Food Production Order 3. The order still applies to Puerto Rico. (supersedes Temporary Rationing Order A. September 12, 1942).

2. Food Production Order 2 is superseded by Food Production Order 3 (supersedes Temporary Rationing Order B, September 12, 1942).

3. Food Production Order 3: as amended May 6, 1943 and on June 8, 1943 (8 F.R. 7625), (Supersedes Temporary Rationing Order C, Nov. 21, 1942): Food Production Orders 1 and 2): The order provides for the establishment of state quotas for new farm machinery and equipment, fluid milk shipping containers and covers, fencing, farm scales, pressure cookers and pipe, and provides that no person shall transfer or accept transfer of any such equipment except pursuant to the order. The administration of the farm machinery and equipment rationing program established by the order and the powers and conferred upon the Secretary by the Office of Price Administration Administrative Orders Nos. 28 and 29 are delegated to the Director of Food Production. However, the Administrator, by his memorandum No. 4, May 10, 1943, designated Mr. M. Lee Marshall as Deputy Administrator to be responsible for all supplies, machinery, equipment, etc., programs of the War Food Administration.

4. Food Production Order 4, January 23, 1943: "Any person seeking relief from a rationing order now or hereafter administered by the Director of Food Production may, if he seeks relief of a type not provided for in the rationing order appealed from, file with the Director of Food Production. . . a written statement of the relief which he seeks and the reasons why he believes that he is entitled to such relief. . ."

5. Food Production 5, January 18, 1943, as amended, (supersedes War Production Board No. M-231): The order designates crops deemed essential to the war effort as "A" crops and requires that deliveries of chemical fertilizers for use on these crops be given preference over deliveries for other crops. Producers of Grade A crops are permitted to obtain the necessary tonnage of approved grades of fertilizer required to attain 1943 production goals. Producers of Grade "B" crops may use chemical nitrogen fertilizers provided that during the 1940-41 or 1941-42 seasons, they used such fertilizers on group "B" crops.

6. Food Production Order 6, January 19, 1943: Movements of all Bermuda grass and carpet grass seeds are frozen by the order until a sufficient supply can be purchased by the Government to fill military needs. Commodity Credit Corporation began an immediate purchase of the seeds.

7. Food Production Order 7, January 27, 1943: Pet food manufacturers are required by the order to limit the animal protein content to 8 percent and the total protein content to 24 percent by dry weight of such foods processed prior to July 1, 1943. Pet foods supplied to the armed forces are exempt from the restrictions of the order. Until June 30, 1943, manufacturers are restricted to 50 percent of the amount of pet food produced during 1941, or 30 percent of four times the amount of dry weight produced during the last quarter of 1942, whichever is greater.

8. Food Production Order 8, February 9, 1943: (supersedes Commodity Credit Corporation Oilseed Order No. 7.) The purchase or acceptance of delivery of oilseed meal for use in the manufacture of mixed fertilizer for sale is prohibited. The restriction does not apply to cottonseed oil meal or cake acquired from a farmer who got the meal or cake prior to January 2, 1943, and of which the organic nitrogen content does not exceed 80 percent of the quantity of organic nitrogen used during the period July 1, 1941 to June 30, 1942. Exception is also made in cases where cottonseed oil meal or cake is to be used in the manufacture and sale of citrus fruits, cigar leaf tobacco and certain vegetables.

9. Food Production Order 9, as revised April 30, 1943: (supersedes Commodity Credit Corporation Oil seed Order No. 6): The oil seed meal stocks of feed manufacturers, dealers, and consumers are limited by the order. It limits the sale, delivery, exchange and inventories of oilseed meals and cake, for the purchase of facilitating livestock feeding. Processors are prohibited from acquiring a stock of oilseed meals as of the end of any month in excess of the quantity held as of the same date in 1942 or an amount equal to the quantity produced or acquired by processors during the preceding 5 days, whichever is greater. The order was administered by Commodity Credit Corporation under a delegation of authority to that effect from the Director of Food Production. Upon reissuance of the order on April 30, 1943, the War Food Administrator delegated authority for the administration of the order to the Director of Food Production.

10. Food Production Order 10, April 24, 1943; With regard to the manufacture, delivery and use of chemical fertilizer in Puerto Rico, it is provided that the War Board is to encourage the use of available chemical fertilizer on food crops in Puerto Rico and to prescribe a formula for the mixing of suitable fertilizer. No fertilizer shall be sold or delivered or accepted except as is according to such formula and as is authorized by the War Board.

11. Food Production Order 11, May 1, 1943: Except as otherwise authorized by the Director of Food Production, no dealer shall deliver any pyrethrum insecticide for use for agricultural purposes unless he receives from that person a certification that he will use it only for designated purposes.

12. Food Production Order 12, May 3, 1943 (8 F.R. 5791), War Production Board Directive 15 as amended May 8, 1943 (8 F.R.6018) authorized the War Food Administrator to control the distribution of pyrethrum and rotenone insecticides to agricultural uses. After May 1, 1943, no person shall, without the prior approval of the Director of Food Production acquire or make any intra-company deliveries of any nitrogenous material derived from any plant or animal organism containing nitrogen for use in the manufacture of mixed fertilizer for sale. This order was revised on June 4, 1943, 8 F.R. 7517, and the Deputy Administrator in charge of the Office of Materials and Facilities of the War Food Administration was authorized to administer the provisions of the order. The delivery and purchase of organic nitrogenous material is therein controlled for the period from June, 1943 to June 1944.

EXHIBIT "G"

FOOD DISTRIBUTION ORDERS REQUIRING QUANTITIES OF "FOODS" TO BE SET ASIDE AND OTHERWISE REGULATING THE FLOW AND CONSERVING THE SUPPLY THEREOF.

1. Department of Agriculture Conservation Order No. 1, November 3, 1942: By Directive No. 12, October 31, 1942, War Production Board authorized and directed the Secretary of Agriculture to exercise function conferred upon the President by Title III of the Second War Powers Act with respect to setting aside spray dried milk for governmental war requirements. The Secretary's authority was limited in that he could not determine war requirements, control distribution of quantities in excess of war requirements, etc. On November 3, the Secretary issued Conservation Order 1, requiring that 90 percent of the spray dried milk supply be set aside for Government use. The order has not been reissued. The limitations on the Secretary's authority contained in War Production Board Directive No. 12 were eliminated by Executive Order 9280. (superseded by Food Distribution Order No. 54, May 29, 1943.)

2. Food Distribution Order No. 2, A as amended April 30, 1943 and Food Distribution Order 2.1, April 30, 1943: Every manufacturer producing more than 12,000 pounds of butter in any month since January 1942 is required to set aside at least 30 percent of his monthly production for sale to designated Government agencies beginning February 1. These Governmental agencies include the Army, Navy, Marine Corps, Coast Guard and the Food Distribution Administration. "Set-aside" butter can be sold directly to the Government or through an authorized receiver who is equipped to receive, store and ship butter in carload lots. It is expected that two-thirds of the butter set aside under the order will go to the United States Military Forces. Producers are required to set-aside 50% of their butter during May, June and July, 1943.

3. Food Distribution Order No. 3, January 5, 1943, as amended January 28, 1943: In order to insure an adequate supply of canned citrus products for Government requirements, the production and sale of any citrus juices, other than unconcentrated grapefruit juice, except pursuant to Government contracts are restricted. For the purpose of increasing civilian consumption of fresh grapefruit, wholesalers and other distributors are required to reserve the quantity of unconcentrated grapefruit juice purchased until April 1, 1943.

4. Food Distribution Order No. 5 As amended, April 29, 1943: To insure that the greater part of the chicory production will continue to be sold in bulk for customary coffee blending purposes, the sale by processors of packaged chicory is restricted to 25 percent of the total amount of bulk chicory which was delivered by them to persons other than processors in a designated period.

5. Food Distribution Order No. 6, January 12, 1943 and Food Distribution Order No. 6.1, January 20, 1943, as amended by Amendment No. 1, February 24, 1943, and Food Distribution Order No. 6.2, April 20, 1943: In order to provide processing plants with sufficient quantities of fresh citrus fruit to enable them to operate at capacity, citrus fruit handlers in California, Florida, Texas, and Arizona, may be required to "set aside" specified quantities of fruit for processing. The set-aside fruit may be sold at any time to a processor or to any Government agency for processing or may be processed into juice by the handler subject to existing orders. Sale of canned citrus juice is restricted to Government contracts by Food Distribution Order No. 3.

6. Food Distribution Order No. 7, January 15, 1943: Food Distribution Order No. 7.1, January 21, 1943: (Supersedes War Production Board Order M-98, October 30, 1942). The importation, purchase or acceptance of raw sugar is restricted to refiners or manufacturers and other persons specifically authorized by the Director of Food Distribution. Refiners are restricted in the purchase or importation of raw sugar within allotments which may be established for them by the Director from time to time.

7. Food Distribution Order No. 8, January 19, 1943; Food Distribution Order No. 8.1, February 1, 1943: (supersedes War Production Board Order M-271, December 4, 1942). In order to assure an adequate supply and efficient distribution of dairy products needed to meet war and essential civilian requirements, processors of ice cream or mix are restricted in the use of milk solids in frozen dairy foods for civilian consumption to 65 percent of the base period. The total milk solid content of all ice cream cannot exceed 22 percent of the weight of the ice cream. Processors may not use more than 8 parts of milk solids - not fat - to each 10 parts of milk fat in ice cream. Products to be delivered to the Army or Navy are exempt from the quotas on total milk solids.

8. Food Distribution Order No. 10, January 21, 1943; as amended February 6, 1943: Rice millers are required to set aside 60 percent of their stock of milled rice for purchase by designated governmental agencies for shipment to American Territories where rice is a staple food and for U. S. Military needs. Of the 40 percent of the millers stock reserved for civilian consumption, the miller may not ship to any state during a crop year a quantity larger than 85 percent of the total quantity he shipped into the same state during the last crop year.

9. Food Distribution Order No. 11, 1943, as amended April 30, 1943: All handlers and distributors of milk throughout the country are to:

   1. Eliminate all package sizes for milk below 1 quart except where the milk is to be resold for consumption on the premises except in factories, schools, offices, playgrounds and similar places.

   2. Confine purchases to not more than 2 handlers during three consecutive days unless the delivery from each handler is in excess of 300 quarts. Processors and pasteurizing handlers of milk may purchase from any number of sources.

   3. Load milk only on advance or standing orders.

   4. Eliminate milk returns from stores, hotels, restaurants, or other establishments.

   5. Charge minimum rates of deposit on all glass bottles, milk cans, and cases. Exemption from this may be granted in any case where no economy will be effected thereby and where exemption will not prevent collection on deposits in the wholesale milk trade.

   Sales to the armed forces are not subject to restrictions (1) and (5). Rural areas and incorporated places under 5,000 in population are also exempt. The order is a part of the milk marketing economy program.

10. Food Distribution Order No. 12, January 28, 1943. (Supersedes War Production Board Order M-267). Half the butter in cold storage in 35 principal markets until March 6, 1943, is required to be set aside for war needs.

11. Food Distribution Order No. 13, February 2, 1943, (supersedes War Production Order M-259, November 25, 1942. The delivery of cream having a butterfat content in excess of 19 percent, except to other producers, hospitals or persons for use in supervised medical treatment is restricted.

12. Food Distribution Order No. 15. February 6, 1943 as amended April 30, 1943, and Food Distribution Order 15.1, April 30, 1943, each producer of American cheese producing more than 8,000 pounds in any month is required to set-aside 50 percent for sale to the Army, Navy, Marine Corps, Coast Guard and Food Distribution Administration. 70% of the producer's cheddar cheese is required to be set aside during May, June and July.

13. Food Distribution Order No. 16, January 30, 1943 (supersedes War Production Order M-205). Each packer shall set aside for governmental purchase his entire supply of raisins, dried apples, apricots, peaches, pears and prunes.

14. Food Distribution Order No. 17, January 30, 1943, as amended May 4, 1943. (Supersedes War Production Board Order 205-a). All grapes of the raisin variety are reserved for conversion into raisins except that persons may purchase, accept delivery of or use up to 100 pounds of such grapes for other purposes.

15. Food Distribution Order No. 18, as amended June 17, 1943; Food Distribution Order No. 18.1, February 6, 1943; Food Distribution Order No. 18.2 March 23, 1943, (supersedes War Production Order M-111 and M-111-c); and Food Distribution Order No. 18.3, June 17, 1943. In order to assure an equitable distribution of tea among members of the tea industry, thereby providing more equitable distribution to the consumer, the Director of Food Distribution is authorized to determine acceptance and delivery quotas for tea packers.

16. Food Distribution Order No. 19, February 8, 1943; Food Distribution Order No. 19.1, as amended April 26, 1943; (supersedes War Production Order M-127). In order to assure an equitable distribution of spices among packers, thereby providing equitable distribution to consumers, the Director of Food Distribution Administration is authorized to determine delivery and acceptance quotas for packers, industrial users and wholesalers.

17. Food Distribution Order No. 20, February 11, 1943; federally inspected packers are required, beginning February 14, to reserve 50 percent of their weekly lard production for purchase by the Food Distribution Administration. On April 1, 1943, the Director of Food Distribution authorized Robert Burrows of John E. Jacobsen as administrators of Food Distribution Order No. 20 to release at any time any or all of the lard and rendered pork fat required to be set aside under Food Distribution Order No. 20.

18. Food Distribution Order No. 21, February 15, 1943; Commodity Credit Corporation is the sole purchasing agency for the United States Government of tea produced abroad. After importation only qualified distributors will be permitted to purchase tea from Commodity Credit Corporation. These distributors are restricted in the distribution of tea to packers in accordance with Food Distribution Order No. 18.

19. Food Distribution Order No. 22, as amended May 15, 1943,(8 F.R. 6397): (supersedes War Production Order M-86); Food Distribution Order No. 22.2, February 19, 1943 (supersedes War Production Board Order M-86-c); Food Distribution Order No. 22.3, February 19, 1943 (supersedes War Production Order M-86-e); Food Distribution Order No. 22.4, May 18, 1943, (supersedes FD022.1, FD022.2 and FD022.4). Every canner and processor of fruits, vegetables, and juices must set aside for the requirements of government agencies such quantities of their production as the Director of Food Distribution may specify.

20. Food Distribution Order No. 23, February 19, 1943; Food Distribution Order No. 23, Amendment No. 1, February 27, 1943; (supersedes War Production Board Order M-86-b). Salmon canners are permitted to release for ultimate civilian consumption the 20 percent of the 1942 pack. Canners of sardines and mackerel must set aside 80 percent of their production for the Govern- for direct war needs.

21. Food Distribution Order No. 25, February 27, 1943; Food Distribution Order No. 25.1, February 27, 1943 (supersedes War Production Order M-148). A processor of cocoa beans may process only 60 percent of the amount of cocoa beans processed by him during the corresponding period of 1941. The manufacturer of chocolate, novelty and decorative candy pieces, chocolate coating of such items, chocolate shop and other processes is prohibited.

22. Food Distribution Order No. 26, March 5, 1943; no dealer is permitted to buy or sell cattle, calves, hogs, sheep or lambs without first securing a permit from the Director of Food Distribution.

23. Food Distribution Order No. 27, as amended June 9, 1943: To assure an adequate supply and efficient distribution of beef, veal, pork, lamb and mutton, it is required that slaughterers and butchers shall operate under a permit. Except for deliveries to or for Government agencies, quotas are established for total slaughters per month. On May 6, 1943, the Director of Food Distribution delegated authority to Regional Administrators to grant such relief from the provisions of the Order as in their opinion is justified under the circumstances. By FD027.1, May 27, 1943, 8 F.R. 7185, the Director required all butchers subject to the order who own and slaughter during any month more than 4,000 lbs. shall submit covering such month's operations. By FD027.2, 8 F.R. 7185, May 27, 1943 the Administrator established monthly beef, mutton, swine, veal and lamb quotas. By amendment No. 2, April 30, 1943, temporary beef quotas were suspended for the month of May in order to make more beef available to the armed forces and in order to provide a more even distribution over the nation of available civilian supplies. By amendment No. 3, June 9, 1943 quotas for the slaughter of cattle during the month of June are supplied.

24. Food Distribution Order No. 28, March 5, 1943, Amendment 1, March 29, 1943: Food Distribution Order No. 28.1, as amended April 6, 1943 and Food Distribution Order No. 28.2, June 11, 1943: Slaughterers are required to set aside designated quantities, etc. of meat as may be specified by the Director of Food Distribution Administration. The meat set aside is to be held subject to allocations by the Director among governmental agencies and authorized processors. Amendment 2 to Food Distribution Order No. 28 issued April 7, 1943; (8 F.R. 4499); as amended June 7, 1943 (8 F.R. 7627).

25. Food Distribution Order No. 30, and Food Distribution Order No. 30.1 March 19, 1943; all stocks and future production of dehydrated Irish potatoes, sweet potatoes, cabbage, carrots, beets, onions and rutabagas are to be set aside for Military needs. Such quantities as may be found necessary for civilian consumers may be released.

26. Food Distribution Order No. 40, as amended June 9, 1943 (8 F.R. 7803): all shell eggs in cold storage on May 20, 1943 shall be set aside for governmental agencies and after May 20th no eggs may be stored except for governmental use, and no shell eggs shall be retained in storage after June 15, 1943 unless pursuant to a contract with a government agency executed prior to June 15th. By FD040-1, the Director of Food Distribution required persons owning storage space to report the total number of shell eggs in storage on June 1, and July 1, 1943. By amendment 4 of the order, issued June 16, 1943, ship chandlers are now permitted to store and accumulate shell eggs for the use of ship operation.

27. Food Distribution Order No. 41; March 22, 1943; the entire 1943 production of spray process dried whole eggs is set aside for delivery to governmental agencies. The production of frozen and liquid eggs, dried yolks, dried albumen, and pan-dried whole eggs is limited to the quantities produced and sold for commercial use in the United States in 1942.

28. Food Distribution Order No. 44, April 1, 1943, and Food Distribution Order No. 44.1, May 4, 1943; canners of salmon, pilchard, sea herring, mackerel, horse mackerel and shrimp are required to set aside 55 percent of their supply for purchase by the Food Distribution Administration for Government requirements. Canners of tuna, yellow tail and bonito shall set aside 60 percent of their supply for the Food Distribution Administration. Other provisions of Food Distribution Order No. 23 and Amendment 1 are continued in effect.

29. Food Distribution Order No. 45, April 1, 1943; processors of beans are required to set aside 55 percent of their supply for delivery to Government agencies. Sixty percent of the processors' supply of split peas and peas must be set aside for purchase by the Government.

30. Food Distribution Order No. 47, and Food Distribution Order No. 47.1. April 6, 1943 (supersedes War Production Board General Preference Rating Order No. M-118): No person may accept deliveries of honey to be used in the manufacture of other commodities which will increase his inventory beyond certain quotas.

31. Food Distribution Order No. 48, as amended June 4, 1943, 8 F.R. 7520; Slaughterers of beef and pork are not permitted to maintain inventories of those meats in excess of specified quantities.

32. Food Distribution Order No. 49, as amended, June 7, 1943. (8 F.R. 7520.) This order provides for the control over shipments of potatoes from specified areas. Every shipper is required to obtain a permit before making any truck or rail shipments. To obtain a permit the shipper must offer to sell to Federal agencies the entire quantity for which the permit is requested. That portion of the supply not needed will be released promptly for commercial shipment. Amendment 4 to the order of June 12, 1943 removed shipping restrictions in 22 counties in Georgia and South Carolina.

33. Food Distribution Order No. 50, as amended June 11, 1943: In order to assure an adequate supply of wool to meet war and civilian needs all sales and deliveries of domestic wool must be made to the Commodity Credit Corporation, unless specifically authorized otherwise by the Director of Food Distribution or unless specifically exempt by other terms of the order. By FDO No. 50.1, May 29, 1943, 8 F.R. 7211, purchases of and sales to Indian traders from Indians under the jurisdiction of the United States of wool is specifically authorized.

34. Food Distribution Order No. 51, April 24, 1943: In order to conserve the supply of edible molasses, blenders and food manufacturers are limited in the purchase and acceptance of quantities of molasses to 100 percent of their 1941 yearly supply during any marketing year, unless specifically authorized otherwise by the Director of Food Distribution. The order supersedes War Production Board Order M-54, insofar as it applies to edible molasses.

35. Food Distribution Order No. 52, as amended June 4, 1943, 8 F.R. 7522: No person who processes corn into cornstarch, corn meal, alcohol, or other products made in whole or in part from corn or who engaged in the business of buying corn for and mixing it with other feed ingredients for purposes of resale as feed or who buys corn for feeding livestock or poultry, shall purchase corn if such purchase results in his inventory as of the date of purchase being in excess of his requirements.

36. Food Distribution Order No. 53, May 25, 1943, (8 F.R. 7003): No person shall deliver, accept delivery of, use, process, or blend oil pressed or otherwise separated from animal tallow or grease, or oil obtained by any process which includes the rendering of the feet or shin bones of cattle or other titer fatty acids except as specifically authorized by the Director of Food Distribution.

37. Food Distribution Order No. 54, May 29, 1943 (8 F.R. 7210): Any person sho makes skimmed dried milk is required to set aside for particular periods, a quantity of milk equal to such percentages as the Director of Food Distribution may order of all dried skim milk produced by the producer in that period. This order supersedes Conservation Order No. 1. By FD054-1, May 31, 1943, 8 F.R. 7299, the Director ordered producers to set-aside 75% of the spray dried milk produced by him during June and July, 1943.

38. Food Distribution Order No. 55, June 7, 1943, (8 F.R. 7626): No person may after June 9, 1943 ship any container or package containing plums in fresh form which do not meet the requirements of U. S. No. 2 grade, as specified in the U. S. Standards for plums and prunes. Plums prior to shipments shall be inspected by a duly authorized representative of the Federal-State inspection service.

" EXHIBIT H "

FOOD DISTRIBUTION ADMINISTRATION

UNITED STATES DEPARTMENT OF AGRICULTURE

[Food Distribution Regulation 1]

PART 1595—FOOD PRIORITIES

FOOD PRIORITIES

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and in order to supply war and other acute emergency needs, *It is hereby ordered* as follows:

§ 1595.1 *Food priorities*—(a) *Definitions.* When used in this regulation, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) The term "person" means any individual, partnership, corporation, association, or other business entity and includes the States or any subdivisions thereof and the United States and any department, agency, or instrumentality thereof.

(2) The term "food" means all commodities and products, simple, mixed, or compounded, that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, and including all starches; sugars; tobaccos; vegetable, fish, marine animal and animal fats and oils, whether edible or inedible, and including their by-products and residues (whether resulting from refining, distillation, saponification, pressing or settling); sulfated, sulfonated, and sulfurized fats and oils; tall oil; wool grease; soap; fatty acids; and glycerine.

(3) The term "emergency order" means:

(i) Any contract or purchase order for food to be delivered to the Army, Navy, Coast Guard, or Marine Corps of the United States; to any person feeding, under contract (directly or indirectly), personnel of the Army, Navy, Coast Guard, or Marine Corps of the United States (to the extent necessary to feed such personnel); to the United States Maritime Commission; and to the War Shipping Administration; or for food to be delivered, under a contract or purchase order placed by an agency of the United States, to or for the account of the government of any country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act): *Provided*, That any contract or purchase order of the foregoing for food

(a) Which is the subject of any ration order issued by the Office of Price Administration, or

(b) Which is the subject of any food order issued by the Secretary of Agriculture requiring quantities of food to be set aside for delivery to any of the agencies or persons named in this paragraph (a) (3) (i), shall not be an emergency order under this paragraph (a) (3) (i); or

(ii) Any contract or purchase order for food to which the Director assigns a priority rating under this regulation.

(4) The term "Director" means the Director of Food Distribution, United States Department of Agriculture, or any employee of the United States Department of Agriculture designated by such Director.

(b) *Assignment of priority ratings.* The Director may assign priority ratings to contracts, purchase orders, or deliveries concerning food by means of priority rating certificates or at his discretion, by other means. Such ratings may be assigned to deliveries under accepted contracts or purchase orders and also to purchase orders which have not been placed or accepted at the time application is made for such rating. The Director may also issue specific orders as to particular deliveries without assigning ratings thereto, and such orders shall take precedence over all priority ratings issued hereunder.

(c) *Certain emergency orders rated FR-10.* Every emergency order as defined in paragraph (a) (3) (i) hereof is hereby assigned a priority rating of FR-10. This automatic assignment of priority ratings does not apply to contracts or purchase orders for foods which are the subject of ration orders issued by the Office of Price Administration or orders issued by the Secretary of Agriculture requiring food to be set aside for delivery to the Government agencies or persons named in paragraph (a) (3) (i). However, priority ratings may be assigned by the Director to contracts or purchase orders for such food under paragraph (b) hereof.

(d) *Duration of priority ratings.* Unless an emergency order, other than an order rated FR-10 under paragraph (c) hereof, is placed with or delivered to a person for acceptance within 15 days following the date of issuance of such rating or within such other period of time as may be specified by the Director, on the food priority rating certificate or otherwise, such rating shall expire and be without force and effect. All priority ratings may be revoked at any time by the Director.

(e) *Extension of priority ratings.* (1) Priority ratings assigned to contracts or purchase orders of or deliveries to an agency or person named in paragraph (a) (3) (i) hereof, may be extended to the suppliers or subsuppliers of any person required to deliver pursuant to such emergency orders to the extent authorized by the contracting officer of such agency or person, such authorization to be given in writing. Priority ratings assigned to other contracts, purchase orders, or deliveries may not be extended to any suppliers or subsuppliers unless the Director specifically authorizes such extension.

(2) Any person authorized to extend priority ratings may do so:

(i) On the written contract or purchase order by endorsing on or attaching to each contract or purchase order placed by him to which the rating is to be extended a certification in substantially the form provided in Appendix A hereof, signed by an official duly authorized for such purpose; and

(ii) On a purchase order placed by telegraph, by including in the telegram a certification substantially as follows:

Ratings indicated are certified pursuant to Food Distribution Regulation No. 1,

and a copy of such telegram signed by a duly authorized official shall, in every case, be furnished to the addressee thereof.

(3) The person receiving the certification and rating shall be entitled to rely on such representation unless he knows or has reason to believe it to be false. Each person extending a rating or filling an order bearing an extended rating shall maintain at his regular place of business all the records prescribed in paragraph (n) hereof.

(4) Unless the person authorized to extend a priority rating places his order to which such rating is extended, or delivers such order to a person for acceptance, within fifteen days following the

date upon which such extension is authorized or within such other period of time as may be specified by the Director or the contracting officer of an agency or person named in paragraph (a) (3) (i), hereof, such extended rating shall expire and be without force and effect.

(5) No person shall duplicate in whole or in part purchase orders which he has placed with one or more suppliers for delivery of food to which he has extended a rating in such manner that the amount of the food ordered exceeds the amount to which he is authorized to extend the rating, even though he intends to cancel or reduce his purchase orders to the authorized amount prior to completion of delivery.

(6) No priority rating may be extended to any material other than food.

(f) *Sequence of priority ratings.* Priority ratings under this regulation shall be referred to and designated as Food Priority Ratings and shall have the following order of precedence: FR-1, FR-2, FR-3, FR-4, FR-5, FR-6, FR-7, FR-8, FR-9, FR-10.

(g) *Set aside quantities of food.* Unless specifically authorized by the Director, no person shall fill any emergency order by delivering the set aside portion of any food required by any order of the Secretary of Agriculture to be set aside, except to the agency or agencies named in the order requiring the food to be set aside.

(h) *Compulsory acceptance of emergency orders.* Emergency orders must be accepted and filled in preference to any other contracts or purchase orders for food, except that such order need not be accepted:

(1) If delivery on schedule thereunder would be impossible by reason of the requirements of previously accepted orders bearing higher or equal priority ratings, unless acceptance is specifically required by the Director.

(2) If the person seeking to place such orders is unwilling or unable to meet regularly established prices and terms of sale or payment; however, there shall be no discrimination against such orders in establishing such prices or terms; or

(3) If the food ordered is of a kind which is not usually sold by the person to whom such order is offered and which is not capable of being produced by such person without substantial alteration of, or addition to, such person's facilities, unless such person has a supply of such food in sufficient quantity to fill such order.

(i) *Sequence of deliveries.* (1) Every delivery under an emergency order shall be made in preference to deliveries under all other contracts or purchase orders whenever and to the extent necessary to meet the delivery schedule provided in the food priority rating certificate covering such delivery. Deliveries bearing no priority rating or lower priority ratings shall be deferred to the extent necessary to assure those deliveries bearing higher priority ratings, even though such deferment may cause defaults under other contracts or purchase orders. Each person who has emergency orders on hand must so schedule his production and deliveries that deliveries thereunder will be made on the dates required, giving precedence in the case of unavoidable delay to deliveries bearing the higher rating.

(2) The sequence of deliveries under emergency orders bearing the same priority rating shall be determined by the respective dates on which the emergency orders are placed, the emergency order placed first in point of time having precedence over other emergency orders. If emergency orders bearing the same priority rating are placed on the same day and it is impossible to deliver all the quantities specified on schedule, the sequence of deliveries shall be determined by the delivery dates specified in the respective priority rating certificate by which priority ratings were assigned to such orders.

(j) *Rejected orders and deferred deliveries.* When an emergency order has been rejected in violation of this regulation or when deliveries under emergency orders have been unreasonably or improperly deferred, the person seeking to place such order or the person entitled to delivery may file with the Director a report, setting forth the facts in connection with the rejection or the deferment. The Director may thereupon take such action as he deems appropriate, including the imposition of penalties as provided in paragraph (r) hereof.

(k) *Allocations.* When specific allocations of a food are made by the Secretary of Agriculture or the Director by allocation orders, such allocations shall, unless otherwise provided by the Secretary or Director (as the case may be), be made without regard to any priority ratings which have been assigned to deliveries under particular contracts or purchase orders and shall prevail over any such priority ratings.

(l) *Use of food obtained under priority rating.* Any person who obtains a delivery of any food by a priority rating or pursuant to an order of the Director must use such food for the purpose for which it was obtained. If it cannot be used for such purpose for any reason, such person shall redeliver the food to the person who originally delivered it to him. If and to the extent that such person is not able to use or dispose of such food, he shall file with the Director a report describing the same so that such food can be redistributed.

(m) *Existing contracts.* The requirements of this regulation shall be observed without regard to existing contracts or any rights accrued or payment made thereunder.

(n) *Records and reports.* Every person participating in a transaction involving food to which any priority rating issued hereunder applies shall keep and preserve accurate records sufficient to show the following details concerning all transactions (priority and nonpriority) in such food: (1) a copy of contracts or purchase orders and invoices or sales slips, (2) the dates on which all purchase orders were accepted or rejected, (3) the delivery dates requested and the dates of actual delivery, (4) a description of the food involved, (5) a record of delivery by classes, types, quantities, and values, (6) the names of parties involved in each transaction, (7) the priority rating, if any, assigned or extended to the purchase order or contract, (8) the names of persons, if any, to whom the priority rating is extended and the quantity of food received under each extension, (9) the priority rating certificate, if any, (10) and such other information as may be required by the Director. The records required above may be kept by preserving the usual business papers and records insofar as they provide the information required. If the emergency order is accepted and delivered on time, the above records need cover only the period between the acceptance of the order and delivery and must be preserved for a period of two years. If the emergency order is rejected or delivery is deferred, the required records must cover the period beginning with the receipt of the order and ending two months after the rejection or deferment, and must be preserved for a period of two years. Each person also shall execute and file reports and submit other information requested by the Director within the time period specified by him. (This record-keeping requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.)

(o) *Audits and inspections.* All books, records, and accounts of any person participating in any transaction to which any priority rating issued hereunder applies, shall, upon request, be submitted to audit and inspection by the Director.

(p) *Illegal use of priority rating.* No person shall claim or assert any priority rating for any contract or purchase order unless such contract or order is rated under paragraphs (b), (c), or (s) hereof.

(q) *Petition for relief from hardship.* Any person affected by this regulation who considers that compliance herewith would work an exceptional and unreasonable hardship on him may petition in writing (in triplicate) for relief to the Director, setting forth all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate and such action shall be final.

(r) *Violations.* Any person who wilfully violates any provision of this regulation or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this regulation or wilfully conceals a material fact concerning a matter within the jurisdiction of any Department or agency of the United States may be prohibited from receiving or making further deliveries of any material subject to allo-

cation, may be deprived of priorities assistance, and such further action may be taken against him as the Director deems appropriate, including recommendations for prosecution under section 35a of the Criminal Code (18 U. S. C. 1940 ed. 80), under paragraph 5 of Section 301 of Title III of the Second War Powers Act, and under any and all other applicable laws.

(s) *Priorities regulations of the War Production Board superseded.* This regulation supersedes all priorities regulations of the War Production Board in so far as such priorities regulations apply to food except that as to preference ratings heretofore assigned to contracts or orders or as to violations of said priorities regulations or rights accrued, liabilities incurred, or appeals taken under any of said priorities regulations prior to the effective date hereof, such priorities regulations shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability. All preference ratings for food under the War Production Board priorities regulations not heretofore placed with any person shall expire and be without force and effect 15 days after the effective date of this regulation.

(t) *Communications to the Department of Agriculture.* All reports required to be filed hereunder and all communications concerning this regulation shall, unless otherwise directed, be addressed to the Director of Food Distribution, United States Department of Agriculture, Washington, D. C., Ref: FDR-1.

(u) *Territorial scope.* The provisions of this regulation shall apply to all persons in the United States, its territories and possessions, and the District of Columbia.

(v) *Effective date.* This regulation shall be effective March 6, 1943.

(E.O. 9280, 7 F.R. 10179)

Issued this 6th day of March, 1943.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

APPENDIX A—FORMS

1. Any contract or purchase order bearing a priority rating of FR-10, conferred by paragraph (c) of Food Distribution Regulation No. 1 (7 C.F.R. § 1595.1 (c)), may contain substantially the following language:

This purchase order (contract) carries an automatic priority rating of FR-10 under the terms of paragraph (c) of Food Distribution Regulation No. 1. That regulation require that this purchase order (contract) be given priority in acceptance and delivery over other purchase orders or contracts without priority ratings.

2. Any contract or purchase order to which a priority rating is issued by the Director under paragraph (b) of Food Distribution Regulation No. 1 (7 C.F.R. § 1595.1 (b)) may contain substantially the following language:

This purchase order (contract) bears a priority rating of FR— under authorization No. ------ issued to ---------- by the Director of Food Distribution. Delivery on this order (contract) must be made in accordance with the provisions of Food Distribution Regulation No. 1. The purchaser certifies that this order is within the quantity authorized and that the authorization does not expire until ----------.

3. The person authorized by this regulation to permit extensions of priority ratings issued under paragraph (e) of Food Distribution Regulation No. 1 (7 C.F.R. § 1595.1 (e)) may do so by the use of substantially the following language:

This priority rating of FR— may be extended to any ---------- to the extent necessary to obtain food to fill this order (contract), in accordance with the provisions of Food Distribution Regulation No. 1. This authorization of extension shall expire ----------.

4. Any person using an extended priority rating under paragraph (e) of Food Distribution Regulation No. 1 (7 C.F.R. § 1595.1 (e)) on any written contract or purchase order shall attach substantially the following certificate:

CERTIFICATE

The undersigned purchaser hereby represents to the seller and to the Secretary of Agriculture that he is entitled to extend the priority rating indicated opposite the item shown on this purchase order (contract) and that such extension is in accordance with Food Distribution Regulation No. 1, with the terms of which the undersigned is familiar and has been duly authorized according to the provisions of such regulation.

Name

Address

By ----------
Duly authorized officer

Date ----------.

Exhibit I
WAR FOOD ADMINISTRATION
Washington, D. C.

May 10, 1943

ADMINISTRATOR'S MEMORANDUM NO. 4

Delegation of Authority with Respect to Materials and Facilities Programs of the War Food Administration

1. Mr. M. Lee Marshall is hereby designated Deputy administrator.

2. Mr. Marshall shall, under the personal supervision and direction of the War Food Administrator, be responsible for all materials, supplies, machinery, equipment, and facilities programs of the War Food Administration.

3. The Material Control Branch of the Office for Agricultural War Relations, the Facilities Branch of the Food Distribution Administration, the Production Supplies Programs Branch and the Farm Service and Supply Branch of the Food Production Administration, and the Priority Services Group of the Commodity Credit Corporation, and their functions, personnel, property, and funds, are hereby consolidated into an Office of Materials and Facilities, which shall be under the supervision and direction of Mr. Marshall.

4. Mr. Marshall is authorized to issue such orders and directions, prescribe such procedures, and make such delegations of authority as he deems necessary in the discharge of the responsibility hereby imposed upon him. All such orders and directions issued and procedures prescribed by or under the authority of Mr. Marshall shall be binding upon all employees and agencies of the War Food Administration.

5. Mr. Marshall is hereby designated as representative of the War Food Administration on the Requirements Committee of the War Production Board.

6. All existing memoranda in conflict with the provisions of this memorandum or with any action taken by or under the authority of Mr. Marshall pursuant to this memorandum shall be superseded to the extent of such conflict.

Administrator

EXHIBIT J

AGREEMENT BETWEEN THE WAR PRODUCTION BOARD AND THE DEPARTMENT OF AGRICULTURE CONCERNING THE ISSUANCE AND THE PROCEDURE GOVERNING THE ADMINISTRATION OF ALLOCATION ORDERS RELATIVE TO FATS AND OILS.

In order to implement the provisions of Executive Order No. 9280 of December 5, 1942, and the determination thereunder by the Assistant Director of the Bureau of the Budget of January 8, 1943, transferring the fats and oils section of the Chemical Division of the War Production Board to the Department of Agriculture, the following agreement concerning the issuance of and the principles governing the administration of allocation orders relating to fats and oils is now entered into:

1. Orders Now Outstanding. All War Production Board orders which heretofore have been administered in the Fats and Oils Section of the Chemicals Division of the War Production Board will be reissued over the signature of the Secretary of Agriculture and will be administered in the Department of Agriculture, except that War Production Board Orders M-188 (Petroleum Sulfonates) and M-258 (Mineral Oil Polymers) will not be so reissued and will continue to be administered in the War Production Board.

2. New Orders. (a) Pertaining to Oils Exclusively for Food Uses. New Orders pertaining to oil used exclusively for food purposes shall be initiated by the Department of Agriculture and shall be issued by the Secretary of Agriculture. Before the Department of Agriculture submits any such proposed order to the Secretary for signature, the War Production Board will be notified of the intention to issue the order, in accordance with the procedure now obtaining for the clearance of Department of Agriculture orders within the War Production Board.

(b) Pertaining to Oils Exclusively or Partially for Industrial Uses. New Orders pertaining to oils used exclusively or partially for industrial uses may be initiated by the Department of Agriculture or may be proposed by the War Production Board. Thereafter, the proposed order shall be drafted by the Department of Agriculture for the signature of the Secretary of Agriculture, but, prior to its submission for the Secretary's signature, the Department of Agriculture shall obtain the concurrence of the War Production Board, which will give prompt consideration to all such orders submitted to them for clearance.

3. Amendments, Supplements, or Revocations of Orders. The provisions of subparagraph (a) and (b) respectively of paragraph 2 above shall be applicable to the procedure relating to amendments, supplements, or revocations of both existing and new orders.

4. Periodic Allocations of Oils Subject to Orders. Monthly or other periodic allocation meetings will be called and conducted by the Department of Agriculture with representatives of the War Production

Board and the various claimant agencies (including ANMB) given opportunities to attend all such meetings. At each such meeting, the allocation to food uses on the one hand, and industrial uses on the other, covering the appropriate period, of the oil subject to an order will be established and the allocation determined upon at such meeting shall become operative. Also, at such meeting, the allocation, within industrial uses of that portion of the oil allocated for industrial purposes, and the allocations within food uses of that portion of the oil allocated for food purposes, shall be made. In the event of disagreement with respect to the allocation for either industrial or food purposes, the determination of the representation of the War Production Board shall govern with respect to allocation for industrial uses, and the determination of the representative of the Department of Agriculture shall govern with respect to allocation for food uses. Interim requests and appeals will be handled in the same manner at special meetings called for the purpose. The procedures necessary to implement the general principles set forth above shall be agreed upon.

FOR THE WAR PRODUCTION BOARD

/s/ M. Lee Marshall

FOR THE DEPARTMENT OF AGRICULTURE

/s/ Robert H. Shields
(A. D.)
(C. N. K.)
TDL

Approved insofar as affecting previous
determinations made under Executive Order 9280:

/s/ Harold D. Smith
Bureau of the Budget

EXHIBIT K

February 23, 1943

My dear Mr. Wickard:

On January 8, 1943, I made certain determinations with regard to transfers from the War Production Board to the Department of Agriculture of personnel, property, records, and funds as required by Executive Order 9280.

At the request of the Interdepartmental Transfer Committee no determination was made at that time with regard to that part of the Pharmaceutical, Glandular and Vitamins Unit of the Drugs and Cosmetics Section of the Chemicals Division concerned with vitamins, which was "to be subject to further study and negotiation."

Since then, study has been given this unit by a joint War Production Board, Department of Agriculture, and Bureau of the Budget staff, and agreement has been reached with regard to the division of some functions of this unit between the War Production Board and the Department of Agriculture. With these agreements I concur.

It is my understanding that complete agreement was not reached as to certain functions and responsibilities related to requirements, allocations, and distribution of vitamins.

Section 10 of Executive Order 9280 does not include vitamins specifically in the definition of "food." However, vitamins are essential to the diet of humans and animals as a nutritive force, and are therefore complementary to food. Under Section 10 of Executive Order 9280 by definition "The term 'food' shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put."

The great bulk of vitamin use falls within two classifications;

1. The inclusion in processed food, commonly referred to as "fortifications," for purposes of supplementing the vitamin deficiencies of food for humans and animals.

2. The so-called pharmaceutical uses, or the use of vitamins in tablets, or other forms, primarily to overcome vitamin deficiencies of diet. A amall

percentage of vitamins have strictly medicinal uses, much the same as drugs.

Under the terms of Executive Order 9280, there can be no convincing delineation between the two classifications outlined above. Fundamentally, there is no difference between the use at the table of vitamins which have been incorporated in food by fortification processes, and the use at the table of unfortified food supplemental by vitamins in tablet or other forms. In both cases, the objective is that of meeting deficiencies in food and such complements are clearly "food" within Executive Order 9280. It is thus apparent that vitamins for fortifying food and for "pharmaceutical" uses are subject to the powers and responsibilities of the Secretary of Agriculture under the Order.

Vitamins for pharmaceutical uses, however, are distributed through trade channels coming within the jurisdiction of the War Production Board. The Department of Agriculture has indicated that it does not desire to control the distribution of vitamin tablets to the various distributors, nor to regulate the preparation and sale of such tablets beyond determining by the allocation process the total of vitamins to be used in such tablets for domestic civilian consumption.

Proceeding then from Executive Order 9280 and the above position of the Department of Agriculture, it is clear that the Secretary of Agriculture has full responsibility for ascertaining all requirements for vitamins - domestic and international, fortification and pharmaceutical. He would accept as authoritative the determination of the Chairman of the War Production Board concerning requirements for domestic pharmaceutical and medicinal uses as described above, recognizing the War Production Board as claimant for vitamins for these uses.

The Secretary of Agriculture is further charged with formulating and carrying out a program to furnish a supply adequate to meet all requirements. In doing so he would determine the vitamin program including the allocation of vitamins to fortification and pharmaceutical uses. In the case of the domestic civilian use of pharmaceutical vitamins, the Department of Agriculture after making the general allocation for this use would leave control over distribution of these vitamins to the War Production Board.

Specific transfers of personnel from the Pharmaceutical, Glandular and Vitamins Unit of the Drug and Cosmetics Section of the Chemical Division do not appear to be feasible, on which point I understand there is mutual agreement. Accordingly, even though certain functions have been transferred to the Secretary of Agriculture under Executive Order 9280, I am not determining at this time any related transfers of

personnel, property, records, or funds from the Chemical Division.

In carrying out the above operations, it will be necessary for the Department of Agriculture and the War Production Board to work out in detail the working relationships and assignments of responsibility. The Bureau of the Budget will gladly assist in this connection if you wish.

Very truly yours,

/s/ Harold D. Smith

Director

Honorable Claude R. Wickard,
Secretary of Agriculture
Washington, D. C.

CC: Mr. H. C. Albin - Room 1235
Mr. C. G. Garman - Room 103
Mr. Gordon Peyton - Room 1233
Mr. George Cooper - Room 1328

EXHIBIT L (I)

EXECUTIVE OFFICE OF THE PRESIDENT

Bureau of the Budget

Washington, D. C.

February 15, 1943

My dear Mr. Wickard:

On January 8, 1943 I made certain determinations with regard to transfers from the War Production Board to the Department of Agriculture of personnel, property, records and funds as required by Executive Order 9280.

At the request of the Interdepartmental Transfer Committee no determination was made at that time with regard to the Textile Clothing and Leather Division. In the case of this Division, there was agreement that no transfers should be made "with the possible exception. . . of the Raw Cotton, Raw Wool, and Cordage Fibers Sections, where further technical advice is needed."

Since that time, study has been given the Sections named, by a joint War Production Board, Department of Agriculture, and Bureau of the Budget staff, and agreement has been reached with regard to the division of some functions of the above Sections between the War Production Board and the Department of Agriculture. With these agreements I concur.

It is my understanding that complete agreement was not reached as to certain functions and responsibilities related to requirements and allocations, imports, and stockpiles of cotton, wool, flax, and hemp.

Under Section 10 of Executive Order 9280 cotton, wool, hemp, and flax fiber are termed "food" for purposes of the Order. It is, therefore, evident that, as in the case of other food, the Secretary of Agriculture has full responsibility for ascertaining the requirements for cotton, wool, hemp, and flax, to meet the direct and indirect military, other governmental, and civilian needs. He is further charged with formulating and carrying out a program designed to furnish a supply adequate to meet such requirements. Such a program would of necessity include the determination of the amounts of each commodity to be produced domestically, the amounts to be imported, and the amounts to be stockpiled to meet contingencies.

With regard to imports, however, attention is drawn in a brief submitted by the Department to the Interdepartmental Transfer Committee and also in an agreement of the Department with the Board of Economic Warfare, dated February 10, 1943, to the following provisions of Section 5 of Executive Order 9280:

> "With respect to the issuance of the directives for the importation of food heretofore issued to the Board of Economic Warfare by the Chairman of the War Production Board under Executive Order No. 9128 of April 13, 1942 . . . the Chairman of the War Production Board and the Secretary shall jointly issue those directives which relate to the importation of food for industrial uses."

Under this procedure these directives, which involve the quantities, specifications, delivery time, schedules and priorities for imports, cannot be issued without the concurrent agreement of the Agriculture Department. Indeed, in view of the Department's basic responsibility for the total program, such derectives would normally originate in the Department.

Specific transfers of personnel from the Raw Cotton, Raw Wool, and Cordage Fibers Sections do not appear to be feasible or justified, however, since only a part of the time of each of the small number of employees concerned is devoted to the relevant operations. Accordingly, even though certain functions have been transferred to the Secretary of Agriculture under Executive Order 9280, I am not determining at this time any related transfers of personnel, property, records, or funds from the Textile Clothing and Leather Division.

In carrying out the above operations as in the case of all food commodities which are used for industrial purposes, it will be necessary for the Department of Agriculture and the War Production Board to work out in detail the working relationships and assignment of responsibilities. The handling of stockpiles and allocations to other than domestic civilian uses should be among the first problems to be resolved by specific agreement between the two agencies. The Bureau of the Budget will gladly assist in this connection if you wish.

Very truly yours,

(s) Harold D. Smith
Director

Honorable Claude R. Wickard
Secretary of Agriculture
Washington, D. C.

EXHIBIT L (II)

AGREEMENT BETWEEN WAR PRODUCTION BOARD AND THE DEPARTMENT OF AGRICULTURE CONCERNING COTTON, WOOL, HEMP, AND FLAX

In order to implement the provisions of Executive Order No. 9280 of December 5, 1942, the determinations thereunder by the director of the Bureau of the Budget of February 15, 1943, and the identical memoranda issued to their respective staffs on December 16 by the Secretary of Agriculture and the Chairman of The War Production Board, interpreting the provisions of the order as they affect the relationships of the Textile Clothing and Leather Division, the War production Board, and the Department of Agriculture, the following agreement concerning cotton, wool, hemp, and flax is now entered into;

1. Cotton

The Department of Agriculture will have jurisdiction over growing, ginning, and compressing of cotton and will also have jursidiction over the delinting of cotton seed. It will be the claimant for all critical material requirements of the growers and processors of cotton through the ginning, compressing, and delinting operations. In this capacity it will serve as the branch of first reference for all priorities applications for operations enumerated above.

2. Wool

The Department of Agriculture will have jurisdiction over the production of wool up to but not including the scouring and combing operations, which will be controlled by the War Production Board. The Department of Agriculture will be the claimant for all critical material requirements of the wool growers. In this capacity it will serve as the branch of first reference for all priorities applications from the wool growers.

3. Flax and Hemp

The Department of Agriculture will have jurisdiction over the production of flax and hemp up to and including the decorticating operation. It will be the claimant for all critical material requirements for these operations. In this capacity, it will serve as the branch of first reference for all priorities applications from the operations enumerated above.

4. Warehousing

The Department of Agriculture will be responsible for critical material requirements, and facilities requirements for any warehouses clearly identifiable as being wholly concerned with the warehousing of the above mentioned fibers.

EXHIBIT L (II)

5. Commodity Allocations

The War Production Board will have full responsibility for, and control over the allocation of cotton, wool, flax, and hemp to industrial users. Furthermore, it will have complete control over the uses to which these fibers may be put.

6. Agreements with Program Bureau and Facilities Bureau

It is agreed that the provisions of Sections 1 through 4, inclusive of this agreement will be incorporated into any procedures established and agreements entered into between the Department of Agriculture and the Program Bureau or the Facilities Bureau of the War Production Board.

7. Scope of the Agreement

It is agreed that these provisions shall go into effect as soon as feasible, notwithstanding agreements still under negotiation in regard to other phases of cotton, wool, flax, and hemp.

FOR THE WAR PRODUCTION BOARD

_____

FOR THE DEPARTMENT OF AGRICULTURE

_____

EXHIBIL L (III)

AMENDMENT TO

AGREEMENT BETWEEN WAR PRODUCTION BOARD AND THE DEPARTMENT OF AGRICULTURE CONCERNING COTTON, WOOL, HEMP, AND FLAX

Paragraph No. 1 entitled "Cotton" of the Agreement between the War Production Board and the Department of Agriculture concerning Cotton, Wool, Hemp, and Flax, dated February 16, 1943, is hereby amended to read as follows:

1. Cotton

The Department of Agriculture will have jurisdiction over growing, ginning, and compressing of cotton and will also have jurisdiction over the facilities for the delinting of cotton seed. It will be the claimant for all critical material requirements of the growers and processors of cotton through the ginning, compressing, and delinting operations. In this capacity it will serve as the branch of first reference for all priorities applications for operations enumerated above. The War Production Board shall continue to initiate programs and to supervise the quantities and qualities, and the allocation and distribution of that part of the linter production to be used for "chemical cotton pulp", and in exercising such supervision will consult with the Department of Agriculture.

FOR THE WAR PRODUCTION BOARD

S/ -J -4-Krug

FOR THE WAR FOOD ADMINISTRATION

S/ -Jesse W. Tapp

Dated June 21, 1943

Exhibit M-

UNITED STATES DEPARTMENT OF AGRICULTURE
Office of the Secretary
Washington

December 16, 1942

MEMORANDUM NO. 1055

Operations of the Department of Agriculture in Relation to Operations of the War Production Board under Executive Order 9280 Relating to the Nation's Food Program

I. Purpose of this Memorandum

For the guidance of the officers and employees of the Department of Agriculture, this memorandum defines in broad terms the manner in which the related responsibilities of the Secretary of Agriculture and the Chairman of the War Production Board will be carried out under Executive Order 9280 of December 5, 1942, delegating to the Secretary of Agriculture authority with respect to food. A corresponding memorandum is being issued by the Chairman of the War Production Board to the members, officers, and employees of the War Production Board. These memoranda are, of course, designed only to serve as general guides. Of necessity, numerous practical adjustments of detail will be made in the day to day work of the two organizations.

II. Major Inter-Relationships

1. General Statement. In general, the Secretary of Agriculture will exercise full responsibility for and control over the production and distribution of food for human and animal consumption. In general, the Chairman of the War Production Board will have full responsibility for and control over the production and distribution of materials other than food and over facilities. Food which can be used for both human and animal consumption and for industrial purposes presents a special problem which is discussed in paragraph 5 of this memorandum.

2. Requirements for Food. The Secretary of Agriculture will ascertain the total requirements for food for all purposes. The Chairman of the War Production Board will, however, determine the requirements for food to meet industrial needs. In ascertaining the total requirements for food for all purposes, the Secretary of Agriculture will accept as authoritative the determination of the Chairman of the War Production Board concerning requirements for industrial needs.

3. Requirements for Materials other than Food and for Facilities. The Chairman of the War Production Board will continue to ascertain the total requirements for materials other than food and for facilities for all purposes. The Secretary of Agriculture will, however, determine the requirements for non-food materials and for facilities necessary to carry out the food program. In ascertaining the total requirements for materials other than food and for facilities for all purposes the Chairman of the War Production Board will accept as authoritative the determination of the Secretary of Agriculture concerning requirements for non-food materials and facilities necessary to carry out the food program.

4. Position of Secretary as a Claimant Agency. The Chairman of the War Production Board will continue to exercise central direction and control over priorities and allocations for non-food materials and for facilities. The Secretary of Agriculture will act as a claimant agency in accordance with the controlled materials plan with respect to non-food materials and facilities necessary to carry out the food program. Upon consideration of the Secretary's statement of requirements for non-food materials and facilities, the Chairman of the War Production Board, through the Program Vice Chairman, will allocate to the Secretary of Agriculture so much of the required non-food materials and facilities as may be available, having in mind other vital needs. The Secretary of Agriculture will determine the use to which the allocated non-food materials and facilities will be put. The War Production Board will direct the flow of such materials and facilities to manufacturers accordingly.

5. Foods which can be used for both Human and Animal Consumption and for Industrial Purposes. Whenever the available supply of any food which can be used for both human and animal consumption and for industrial purposes is insufficient to meet both types of need, the Chairman of the War Production Board and the Secretary of Agriculture will determine by agreement a division of the available supply between the needs for human and animal consumption and the needs for industrial purposes. Suitable administrative arrangements will be devised by the two organizations to help meet such problems as they arise. Obviously, the determination of the most useful line of demarcation in the case of and such food--i.e., fats and oils--should be governed by practical considerations.

6. Textiles and Fibers. Among the foods, as defined by Section 10 of the Executive Order, which can be used for both human and animal consumption and for industrial purposes are cotton, wool, hemp, and flax. The division of responsibility with respect to textiles and fibers between the two organizations will be worked out on a reasonable basis. In certain forms cotton, wool, etc. come clearly within the concern of the Secretary of Agriculture--i.e., the cotton plant and wool on the back of the sheep. In other forms, cotton, wool, etc. come clearly within the concern of the Chairman of the War Production Board--i.e., thread or cloth. With regard to each of these textiles and fibers there will be a border-zone in which the precise line of division will have to be worked out, case by case, as a matter of practical judgement.

Claude R Wickard

Secretary

EXHIBIT N

AGREEMENT BETWEEN THE WAR PRODUCTION BOARD AND THE ADMINISTRATION OF FOOD PRODUCTION AND DISTRIBUTION [WAR FOOD ADMINISTRATION] CONCERNING ORDERS DEALING WITH CONTAINERS FOR FOOD

In order to implement the provisions of Executive Orders 9280 and 9322, and to establish and determine an effective method for the administration of orders of the War Production Board dealing with containers for food, with respect to the interest of the War Production Board and of the Administration of Food Production and Distribution [War Food Administration] in such orders,

IT IS AGREED:

1. Conservation Order M-81

(a) Appointment of Administrator - General Powers. The Administrator of Food Production and Distribution [War Food Administration] will nominate an employee of the Administration to serve as Administrator of that portion of Conservation Order M-81 relating to food containers, and the War Production Board will thereupon take appropriate action to appoint such nominee as Administrator of that portion of said order. The Administrator so appointed will have complete access to all pertinent records of the Department of Agriculture and the War Production Board necessary to a proper and effective administration of the order. Such Administrator shall be on the payroll of either the Department of Agriculture or the Administration of Food Production and Distribution [War Food Administration]. The Department or the Administration will supply such Administrator with one secretary. Other assistance to the extent necessary will be supplied by the War Production Board.

(b) Appeals. Appeals under the order shall be referred in all cases where the cans are for food purposes to the Administrator nominated by the Administration of Food Production and Distribution [War Food Administration]. Such Administrator shall have full authority to grant appeals so referred to him within the limits of materials available for the purpose under applicable Program Determinations and without the necessity of concurrence in such action by an official of the War Production Board. In the event of second appeal, such second appeal shall be referred to the Administration of Food Production and Distribution [War Food Administration] for reconsideration, and such second appeal may, within the limits of materials above indicated, be granted by the Administration as in the case of first appeals. Any subsequent appeals shall be referred to the Appeals Board of the War Production Board for disposition in accordance with Division Administrative Order No. 13 (Office of Program Vice Chairman) of the War Production Board or other administrative order at the time in force. In each such case, opportunity shall be given to the Administrator concerned before the Appeals Board or other body performing similar functions to present any facts deemed relevant by him or by the Administration of Food Production and Distribution.

(c) Responsibility for Decisions of Administrator. The Administration of Food Production and Distribution [War Food Administration] shall have and accept full responsibility for all decisions of and actions taken by the Administrator nominated by it, and for all actions taken by any employee of the War Production Board under and pursuant to the direction or authorization of such Administrator.

(d) Amendments and Supplements to Order. The Administration of Food Production and Distribution [War Food Administration] may initiate any amendments or supplements to the order concerning cans for food purposes provided the same be within the limits of materials available for the purpose under the Program Determination at the time in force. Any such amendments or supplements shall be prepared by the Administration of Food Production and Distribution [War Food Administration] after consultation with representatives of the Containers Division of the War Production Board to assure the fact that the amendment or supplement will not be inconsistent with general policy of that Division. Thereafter, upon request of the Administration of Food Production and Distribution [War Food Administration] and subject to approval of the War Production Board as to form, such amendment or supplement will be issued by the War Production Board without further clearance.

(e) Compliance. The War Production Board shall have charge of enforcement of the order. However, any action by the War Production Board in securing compliance in connection with the administration of that portion of the order relating to food containers shall be after consultation with the Administrator of Food Production and Distribution [War Food Administration].

2. Other Container Orders.

(a) Appointment of Agricultural Consultants - General Powers. The Food Production and Distribution Administration [War Food Administration] will name one or more employees of the Administration to serve as Agricultural Consultants in connection with the administration of all other Containers Division orders dealing with containers for food. The Agricultural Consultants so appointed will have complete access to all pertinent records of the Department of Agriculture and the War Production Board necessary to a proper and effective performance of their functions. The Agricultural Consultants shall be kept currently informed as to all general problems and policies of administration under the orders to the extent they involve the use of containers for food purposes.

(b) Appeals. The Director of the Containers Division of the War Production Board will establish within the Division one or more Appeals Committees for the purpose of hearing and granting or denying appeals involving containers for food. In the selection of each such Appeals Committee, not less than one member shall be an Agricultural Consultant named by the Administration of Food Production and Distribution [War Food Administration]. Appeals under any order shall be referred in all cases where the containers are for food purposes to the appropriate Appeals Committee so established. The Appeals Committee shall have full authority to grant appeals so referred within the limits of materials available for the purpose under Program Determinations. In the event of second appeal, the appeal shall be referred to the Appeals Board of the War Production Board for disposition in accordance with Division Administrative Order No. 13 (Office of Program Vice Chairman) of the War Production Board or other administrative order at the time in force. In each such case, opportunity shall be given to the Agricultural Consultant concerned before the Appeals Board or other body performing similar functions to present any facts deemed relevant by him or by the Administration of Food Production and Distribution [War Food Administration].

(c) Responsibility for Actions of Agricultural Consultants. The Administration of Food Production and Distribution [War Food Administration] shall have and accept full responsibility for all decisions of and actions taken by the Agricultural Consultants named by it, and for all actions taken by any employee of the War Production Board under and pursuant to the direction or authorization of such Agricultural Consultants.

(d) Amendments and Supplements to Existing and New Orders. The Containers Division of the War Production Board will initiate and prepare any new orders and any amendments or supplements to existing or new orders of that Division, except Conservation Order M-81. Any such new orders, amendments or supplements will be cleared in accordance with existing procedures of the War Production Board, provided, however, that upon special request of the Administration of Food Production and Distribution [War Food Administration] in the case of an emergency, any amendment or supplement to Conservation Order M-104 relating to closures for food containers will be cleared and issued in the manner provided in paragraph 1 (d) for amendments and supplements to Conservation Order M-81.

3. Material Allotments. No amendment of any order shall be issued, nor shall any appeal be granted, relative to containers for food purposes which has the immediate effect of exceeding the limits of materials made available for such containers under applicable program determinations.

It is recognized that an amendment or the grant of an appeal permitting the packing of additional quantities of a given commodity, or of commodities theretofore not authorized, need not have such immediate effect, but may ultimately result in creating an authorized demand which will exceed such material limitations. In order to avoid future overdrafts on the materials bank by reason of amendments or grants, the Administration of Food Production and Distribution [War Food Administration] may, as soon as such a result appears imminent, seek thru customary procedures to secure an allocation of additional materials for containers for food purposes from the proper War Production Board authority.

Dated: April 27th, 1943.

/s/ M. Lee Marshall
For the War Production Board

/s/ Robert H. Shields
For the Administration of Food Production and Distribution

EXHIBIT O (I)

April 14, 1943

My dear Mr. Davis:

On January 8, 1943, I made certain determinations with regard to transfers from the War Production Board to the Department of Agriculture of personnel, property, records, and funds as required by Executive Order 9280.

At the request of the Interdepartmental Transfer Committee determination was made at that time in regard to the Beverages and Tobacco Division that no personnel be transferred pending further study.

Recently the War Production Board and the Administration of Food Production and Distribution in the Department of Agriculture have reached agreement that the entire division should be transferred.

Therefore, I am approving the recommendation of the Interdepartmental Transfer Committee that the personnel, property, records and funds of the Beverages and Tobacco Division of the War Production Board be transferred to the Administration of Food Production and Distribution in the Department of Agriculture. This transfer shoud take effect as of 12:01 A. M., April 18, 1943.

We appreciate the cooperative spirit shown in both agencies in having come to an agreement regarding these transfers.

Very truly yours,

(s) Wayne Coy

Assistant Director

Honorable Chester Davis
Administrator of Food Production and Distribution
Department of Agriculture
212 West Administration Building
Washington, D. C.

EXHIBIT O (II)

Food Production and Distribution Administration

Mr. Donald M. Nelson, Chairman
War Production Board
Washington, D. C.

Dear Mr. Nelson:

In order to effectuate the understanding which has been reached between the War Production Baord and this Administration as to the working relationship with respect to the Beverages and Tobacco Division of the War Production Board under Executive Orders Nos. 9280 and 9322, and the determination of the Bureau of the Budget contained in Mr. Coy's letter of April 14, 1943, you are hereby authorized to exercise the authority and discretion and to perform the duties which the Administrator is authorized to exercise and perform under the provisions of said Executive Orders, in the following instances:

1. - The issuance of new orders regulating the processing and distribution of those products normally handled by the Beverages and Tobacco Division, but only when the issuance of such orders is specifically requested by this Administration.

2. - The issuance of amendemnts, supplements, and revocations of orders heretofore or hereafter issued by the War Production Board regulating the processing and distribution of those products normally handled by the Beverages and Tobacco Division.

3. - The administration of any order, amendment, or supplement of the kind described above, including the issuance of interpretations and special rules, regulations, or directions under such order, the allowance or denial of appeals, the granting of particular authorizations, allocations and similar action.

All of the foregoing actions may be taken either in your own name or in the name of such other officials or persons as may be or may heretofore have been specifically designated by you for such purpose.

Exhibit O-2 (II)
Donald M. Nelson

All actions of the kind described in this letter which have been heretofore taken in the name of the War Production Board or any of its officials, are hereby ratified and confirmed and shall remain in full force and effect until specifically amended, revoked, or superseded, or until they expire by their terms.

The authority herein conferred shall continue to July 1, 1943, unless sooner terminated by this Administration. During the life of this authorization, the Beverages and Tobacco Division shall continue under its own name, in its present quarters, and subject to the same general administrative supervision as heretofore: Provided, however, That any determination of policy the effect of which will continue beyond June 30, 1943, shall be submitted for approval to this Administration.

This Administration desires to express to you its appreciation of your willingness to undertake to continue the duties above outlined, and to thank you for your splendid cooperation in this matter.

Sincerely yours,

/s/

Administrator

CBNutting: GC:jo
4-17-43

EXHIBIT P

MEMORANDUM OF AGREEMENT
Between
DIRECTOR OF THE DIVISION OF STOCKPILING AND TRANSPORTATION
WAR PRODUCTION BOARD

(Chairman of the Inter-Departmental
Shipping Priorities Advisory Committee)
and the
PRESIDENT OF COMMODITY CREDIT CORPORATION
DEPARTMENT OF AGRICULTURE
(Chairman of the Committee on Foreign
Purchase and Importation)

The following procedure is agreed to for the establishment and transmission to the War Shipping Administration of import shipping priorities and quotas on commodities under the jurisdiction of the Secretary of Agriculture pursuant to Executive Order No. 9280 of December 5, 1942. Memorandum No. 1054, Supplement 2, issued by the Secretary of Agriculture on January 22, 1943, makes the Chairman of the Committee on Foreign Purchase and Importation of the Department of Agriculture responsible for the preparation of schedules of priorities for the importation by overseas transportation of food and food facilities and for integrating such schedules of priorities with those prepared by the War Production Board, and for arranging jointly with representatives of the War Production Board for the transmission of over-all schedules of priorities to the Administrator of War Shipping Administration.

It is agreed that the existing schedules of shipping priorities and quotas established by the Inter-Departmental Shipping Priorities Advisory Committee shall be tentatively accepted by the Chairman of the Committee on Foreign Purchase and Importation, and such quotas and priorities shall remain effective until revised by the following procedure:

1. Joint sub-committees of the Inter-Departmental Shipping Priorities Advisory Committee and the Committee on Foreign Purchase and Importation shall be appointed from time to time and charged with the task of reviewing specific priority and quota assignments relating to those commodities over which the Secretary of Agriculture has jurisdiction.

2. Such joint sub-committee shall make recommendations in the form of duplicate written reports to the two senior committees relating to maintenance or revision of the quotas and priorities as currently constituted. This sub-committee procedure will serve the purpose of eliminating duplication of the work in the continuing

Exhibit P-2

study of the shipping priority and quota lists that otherwise would be necessary should the Committee on Foreign Purchase and Importation and the Inter-Departmental Shipping Priorities Advisory Committee operate through independent sub-committees.

3. It is agreed that the chairman of the sub-committees dealing with commodities subject to the jurisdiction of the Secretary of Agriculture will be nominated by the Chairman of the Committee on Foreign Purchase and Importation. It is further agreed that the membership of such sub-committee will include representatives of Commodity Credit Corporation and of the Stockpiling and Transportation Division. The following agencies shall be entitled to name representatives to such sub-committees: Food Distribution Administration, Food Production Administration, and the Office of Foreign Agricultural Relations of the Department of Agriculture. Where circumstances of the particular matter under consideration make it appropriate, representatives of the following will be entitled to participate: The Board of Economic Warfare, the Department of State, the Office of Price Administration, the Office of Civilian Supply of the War Production Board, and representatives of any other agencies where it is judged that such inclusion will add to the effectiveness of the sub-committees' work.

It is proposed that a working group be assigned to the work of such sub-committees and that the additional personnel be recruited from time to time in a manner to make the work of the sub-committee most effective.

4. The recommendations of the sub-committees, after presentation to the senior committees, will be reviewed at the regular meetings of such senior committees. The chairman of the senior committees reserve the right to accept or reject the conclusions of the sub-committees. In the event of acceptance by both chairman, the conclusions will be incorporated in the over-all shipping quota and priority lists and transmitted to the War Shipping Administration in the usual manner. In case of disagreement on the part of the chairman of the senior committees, such chairmen will attempt to adjust the differences in personal consultation. In the event of continuing disagreement, the issue will be presented to a panel made up of the Chairman of the Inter-departmental Shipping Priorities Advisory Committee, the Chairman of the Committee on Foreign Purchase and Importation, and a representative of the War Shipping Administration of their joint selection. In the unlikely event of continuing disagreement, the matter may be taken up with the Office of Economic Stabliization, as provided in Executive Order No. 9280 of December 5, 1942.

5. The monthly programming of import tonnage from various areas of the world, within the frame-work of the annual quotas and priorities established by the above procedure, shall be undertaken by a representative of the Committee on Foreign Purchase and Importation and a representative of the Inter-Departmental Shipping Priorities Advisory Committee, in consultation with a duly consituted representative of the War Shipping Administration.

6. All public purchase programs approved by the Committee on Foreign Purchase and Importation shall be reported to the Division of Stockpiling and Transportation of the War Production Board for its records, and no public purchase program shall be undertaken of food commodities for import that results in a requirement for shipping in excess of shipping quotas and priorities established by the above procedure. However, public purchases may be made abroad for stockpile purposes in excess of such quotas, but these will be transmitted to the Division of Stockpiling and Transportation of the War Production Board for its information.

7. It is believed that this arrangement will prove to be satisfactory to the respective chairman of the Committee on Foreign Purchase and Importation and the Inter-Departmental Shipping Priorities Advisory Committee. However, confirmation of this expectation must await experience, and the two chairmen, respectively reserve the right to terminate the arrangement at any time, or by mutual agreement, to revise the arrangement.

EXHIBIT Q

DEPARTMENT OF AGRICULTURE AND
BOARD OF ECONOMIC WARFARE

JOINT ORDER CLARIFYING FUNCTIONS AND RESPONSIBILITIES

Public Purchase of Food and Facilities Necessary for
War Effort and Civilian Economy.

Executive Order No. 9280 of December 5, 1942 (7F. R. 10179), directs that the Secretary of Agriculture "assume full responsibility for and control over the Nation's food program," that "in exercising such authority, he shall, "among other things," promulgate policies to govern the purchase and procurement of food by all other Federal agencies," and that "existing methods for the purchase and procurement of food by other Federal agencies shall continue until otherwise determined by the Secretary pursuant to this Executive Order," Executive Order 9280 furhter provides that "with respect to the issuance of the directives for the importation of food heretofore issued to the Board of Economic Warfare by the Chairman of the War Production Board under Executive Order No. 9228 of April 13, 1942 (7F. R. 2809), the Secretary shall issue those directives which relate to the importation of food for human and animal consumption, and the Chairman of the War Production Board and the Secretary shall jointly issue those directives which relate to the importation of food for industrial uses." Executive Order No. 9128 of April 13, 1942, provides that the Board of Economic Warfare "receive and be responsible for executing directives * * * as to quantities, specifications, delivery time schedules and priorities of materials and commodities * * * required to be imported for the war production effort and the civilian economy," and that the Board "determine the policies, plans, procedures and methods of the several Federal departments, establishments, and agencies with respect to the procurement and production of such commodities, including the financing thereof." Executive Order No. 9280 provides that "any provision of any executive order or proclamation conflicting with this Executive Order is superseded to the extent of such conflict."

In order to clarify the respective functions of the Secretary of Agriculture and the Board of Economic Warfare, to avoid duplication and multiplicity of Government procurement agencies operating in foreign countries, and to insure the effective utilization of the existing foreign procurement organization and facilities of the Board and of the Department of Agriculture, respectively, the following joint order is issued:

1. The Secretary, or whenever so required by Executive Order No. 9280, the Secretary and the Chairman of the War Production Board jointly,

shall issue directives to the Board as to the quantities, specifications, delivery time schedule and priorities of food and food facilities required to be obtained by public purchase in foreign countries for the war effort and the domestic civilian economy.

2. The Board shall receive such directives and be responsible for the initiation, preparation, negotiation, or amendment of any contracts, agreements, or arrangements necessary to fulfill such directives. In addition, the Board shall supervise and administer all food production programs under such contracts and agreements. The officers of the Board shall, insofar as practicable, without duplication of effort, consult with the officers of Commodity Credit Corporation regarding the method of procurement involved prior to the conclusion of any contract, agreement or arrangement establishing the method of procurement.

Commodity Credit Corporation, however, shall be responsible for transacting current spot purchases of food and food facilities abroad offered in the United States. Any spot offerings made abroad to the representatives of the Board shall be communicated by the Board to the Commodity Credit Corporation in the United States. Commodity Credit Corporation shall be authorized to execute pruchase contracts with respect to spot offerings of food or food facilities from foreign sources for which no directive for public purchase has been issued by the Secretary, but shall first consult with the Board with respect to such purchases. Upon advice from the Board, Commodity Credit Corporation will suspend spot purchases of any foods or food facilities in specific countries pending the initiation or negotiation of contracts or agreements by the Board relating to such foods or food facilities.

3. Commodity Credit Corporation shall execute such contracts and agreements as may be negotiated by the Board hereunder for the Corporation's account and shall be responsible for the acceptance of delivery and for the disbursement of funds under such contracts and agreements, as well as the necessary accounting with respect to such disbursement, and the inspection, storage, handling, or disposition on and after delivery. The Corporation shall be guided by such policies as the Board may recommend for the coordination in foreign countries of warehousing and transportation plans and procedure.

4. The services of the Board's foreign field personnel shall be made available to the Corporation to such extent as the Corporation may request in the performance of its responsibilities hereunder. In order to avoid duplication of personnel, the Corporation shall, so far as is feasible, avail itself of the Board's staff in foreign countries.

5. All contracts negotiated by the Board for the procurement or development of food or food facilities (as these terms are defined in Executive Order No. 9280) in foreign countries shall be negotiated for the account of Commodity Credit Corporation except, however, the Board may procure food or food facilities for the account of the U. S. Commercial Corporation or other appropriate agency in areas that may be agreed upon or in instances where the primary purpose is not the procurement of food for human, animal, or industrial uses.

6. With respect to any foreign procurement of wool, cotton, sugar, or other food produced in the United States, the Board of Economic Warfare and the Commodity Credit Corporation shall collaborate in determination of all policies and, insofar as practicable, the Board shall consult Commodity Credit Corporation regarding terms of contracts, which policies or terms, if adopted with respect to foreign procurement, might affect the domestic procurement of such commodities.

/s/ Claud R. Wickard,
Secretary of Agriculture

/s/ H. A. Wallace,
Chairman, Board of
Economic Warfare

February 10, 1943.
(F. R. Doc. 43-2233; Filed, February 11, 1943;
10:58 a. m.)

8 F. R. 1897

EXHIBIT R

Schedule of all commodities which are under the jurisdiction of the War Food Administrator and which appear on lists I, II and III of WPB order M-63.

List I

a. No person, except Government agencies, may import, purchase for import, contract for importation any material on this list except by special authorization of the Director General of Operations. Existing contracts are allowed to stand.

b. After commodities on this list are legally imported the owner cannot sell, process, or move them beyond the place of initial storage. He can sell them to a Government agency or apply for authorization to process or move them:

1. Beef and mutton tallow
2. Cacahuanche oil
3. Castor beans
4. Cod oil
5. Cottonseed oil, crude or refined
6. Flax, unmanufactured
7. Flaxseed (Linseed)
8. Hemp (Cannabis Sativa type)
9. Lard and lard oil
10. Linseed oil
11. Muru Muru nut oil
12. Myrobalan fruit
13. Neatsfoot oil and animal oils known as neatsfoot stock
14. Oleo oil
15. Peanut oil
16. Rapeseed
17. Sesame oil, edible and inedible
18. Sunflower oil, edible and denatured
19. Tucum oil
20. Whale oil
21. Wool grease

EXHIBIT R (cont'd)

List II

a. Commodities on list II are subject to the same import regulations as those on List I.

b. After legal importation has been made, these commodities may be sold, processed or consumed without restriction, insofar as M-63 is concerned.

1. Babassu nuts and kernels
2. Babassu nut oil

3. Cashew nut kernel oil
4. Cashew nut shell oil
5. Castor oil
6. Coconut oil
7. Cohune nuts and kernels,
8. Cohune nut oil
9. Corn or maize oil (edible)
10. Cotton linters (munition or chemical grades)
11. Cottonseed Hull fibers

12. Flax, unmanufactured

13. Glycerine, crude and refined

14. Oiticica oil
15. Ouricurry nuts, kernels, oil (edible and inedible)

16. Palm nut kernels
17. Palm kernel oil
18. palm oil

19. Rapeseed oil, denatured and not denatured

20. Sperm oil, crude, refined

21. Tung oil

List III

a. Commodities on list III are subject to same import regulations as those on lists I and II, except that existing contracts for the importation of commodities on list III will not be allowed to stand as are those on the other two lists.

b. After materials on this list are legally imported they may be disposed of without restrictions, except that reports must be made to the Collector of Customs.

1. Alfalfa seed
2. Anchovies, canned

EXHIBIT R (contd)

List III (contd)

3. Bananas
4. Beans
5. Beef and veal, pickled, cured, canned
6. Beeswax
7. Bran, shorts and other wheat byproduct feeds
8. Brazil or cream nuts
9. Broomcorn
10. Butter

11. Cashew nuts and kernels
12. Castor oil cake and cake meal
13. *Cheese
14. Chicle
15. Cinnamon
16. Cocoa beans, powder
17. Cocoa butter
18. Cocoanut, in shell or meats
19. Coffee
20. Combinations of animal, vegetable and mineral oils
21. Corn
22. Cotton linters (other than munition or chemical grades)
23. Cottonseed oil
24. Crabs, fresh, frozen, prepared, preserved
25. *Chickpeas

26. Dog food

27. Egg albumen
28. Eggs, (chicken) in the shell, dried, frozen
29. Egg yolks

30. Fatty acids
31. Fish scrap and meal

32. Garlic
33. Ginger root
34. Grapefruit and pomeloes
35. Grapes
36. Gums

37. Hempseed, and hempseed oil
38. Herring
39. Hides and skins
40. Honey
41. Hydrogenated oils and fats, vegetable or animal

42. Kola nuts

EXHIBIT R (contd)

List III (contd)

43. Lentils
44. Limes
45. Linseed oil
46. Lobsters

47. Mace
48. Meats (canned or prepared), meat extracts
49. Melons
50. Milk, condensed and evaporated
51. Molasses and sugar sirup, edible and inedible
52. Muru Muru nuts and kernels

53. Nutmegs

54. Oats
55. Offal
56. Oil cake and oil cake meal, soybean, cocoanut, cottonseed, linseed, peanut, hempseed
57. Onions
58. Orange oil

59. Peaches
60. Pears
61. Peas
62. Peppers
63. Pimentos
64. Pork

65. Rice, broken
66. Rye

67. Salts derived from vegetable, animal and fish oils
68. Sausage casings
69. Sesame seed
70. Soap
71. Soybean oil
72. Sugar, cane
73. Syrup

74. Tallow, vegetable
75. Tankage
76. Tapioca
77. Tea
78. Tobacco
79. Tonka beans
80. Tucum nuts and kernels
81. Tuna fish
82. Turtles

83. Vanilla beans
84. Veal, pickled, cured, canned
85. Vegetable ivory, oil fats, soap stocks

MEMORANDUM OF UNDERSTANDING Exhibit S.
BETWEEN
THE DEPARTMENT OF AGRICULTURE
AND THE
OFFICE OF PRICE ADMINISTRATION
RELATIVE TO FARM AND FOOD PRICES

* * * * *

In order to assure a close working relationship between the Department of Agriculture and the Office of Price Administration on all matters affecting farm and food prices, the following procedure is agreed to by both agencies:

1. The Office of Price Administration will secure the signature of the Secretary of Agriculture to all regulations which relate to the establishment of price ceilings on agricultural commodities, as provided in the Emergency Price Control Act of 1942, the Act of October 2, 1942 (Pub. Law 729, 77th Cong.), and Executive Order No. 9250, October 3, 1942.

2. The Office of Price Administration may consult with the technical staff of the Department of Agriculture with regard to proposed price ceilings on processed commodities. The Office of Price Administration will also notify a designated representative of the Secretary of Agriculture of any contemplated ceiling which the Price Administrator has reason to believe will directly and substantially affect the procurement, production, or subsidy operations of the Department of Agriculture. Unless the Secretary of Agriculture enters an objection, the Office of Price Administration may proceed as usual. If, however, the Secretary enters an objection to the issuance of the proposed ceiling, the matter shall be referred to the Economic Stabilization Director. If, on the other hand, the Office of Price Administration is of the opinion that there is no reason to believe that the contemplated ceiling will directly and substantially affect the procurement, production or subsidy operations of the Department of Agriculture, its docket shall contain a statement to that effect.

3. The Department of Agriculture may consult with the technical staff of the Office of Price Administration in connection with its marketing agreements, orders and support price program. The Department of Agriculture will also notify a designated representative of the Price Administrator of any contemplated agreement, order or support price program which it has reason to believe will require a price ceiling adjustment. Unless the Price Administrator enters an objection to the proposed action, the Department of Agriculture will proceed as usual. If the Price Administrator enters an objection to the proposed action, the matter shall be referred to the Economic Stabilization Director. If, on the other hand, the Department of Agriculture is of the opinion that there is no reason to believe that its proposed action will require a price ceiling adjustment, a statement to that effect shall be contained in the Department of Agriculture's docket. Whenever there is reason to believe a price ceiling adjustment will be required and

Exhibit S-2

the Price Administrator nevertheless agrees to the proposed ceiling, the docket will contain a statement of such agreement.

4. All matters referred to in 1, 2 and 3 above will, insofar as practicable, be submitted by the initiating agency to the approving agency in sufficient time to permit the technical staff of the approving agency carefully to analyze such matters.

5. If any program referred to in 1, 2 or 3 will, in the opinion of the agency which initiates such program, necessitate a subsidy in order to maintain a then existing or contemplated price ceiling, the nature and amount of such subsidy will be agreed upon by the Secretary of Agriculture and the Price Administrator before the action necessitating the subsidy is taken. However, if the agency which initiates such program is of the opinion that the program must be put into effect promptly, it may proceed with such program, unless the other agency objects, in which case the matter shall be referred to the Economic Stabilization Director. All subsidy programs shall be approved by the Economic Stabilization Director before they become effective.

6. With respect to producers' prices for fluid milk, under the Agricultural Marketing Agreement Act of 1937, it is the duty of the Secretary of Agriculture only to fix producers' prices, and as a result, the Department does not receive detailed evidence of handlers' margins at hearings conducted under the Act. Milk producers' prices so fixed may directly and substantially affect price ceilings on wholesale and retail fluid milk and cream. Where this is so, the Department's hearings with respect to producers' prices may be followed immediately by hearings conducted by the Office of Price Administration for the purpose of determining the extent to which handlers' margins are affected and some form of action is required. The technical staff of the Department, insofar as practicable, will be available to assist in gathering information and in analyzing the evidence received at such OPA hearings. Before any change is announced in producers' prices under a Federal milk-marketing order, the Secretary and the Price Administrator will agree as to the effect of such order on handlers' margins and as to whether a subsidy, adjusted price ceilings or some other form of action is required.

7. Although every effort will be made by the Secretary and the Price Administrator to solve these problems jointly affecting their agencies without the necessity of reference to the Economic Stabilization Director, it is recognized that agreement may not always be possible. In case of disagreement, the Secretary and the Price Administrator will submit their views in writing to the Economic Stabi-

lization Director, sending copies to each other. The decision of the Economic Stabilization Director with respect to such disagreement shall be final.

_____
Secretary of Agriculture

_____
Administrator, Office of Price Administration

APPROVED:

_____
James F. Byrnes, Director
Office of Economic Stabilization

_____
Date

EXHIBIT T.

OFFICE OF PRICE ADMINISTRATION RATIONING ORDERS
OF SIGNIFICANCE TO THE NATION'S FOOD PROGRAM

I. General Ration Orders: These orders pertain for the most part to the administrative or procedural aspects of the rationing program:

A. General Ration Order No. 1, October 24, 1942: "Any person seeking relief from a ration order for which no provision is made in the order, shall present in writing to the Deputy Administrator in charge of rationing, office of Price Administration, Washington, D. C., a statement of the circumstances thought to warrant such relief, and the reasons why he believes that the granting of relief in his case and in all like cases would not defeat or impair the effectiveness or policy of the ration order involved....."

B. General Ration Order No. 2, December 1, 1942: Every person operating an institutional establishment is required to keep a record of persons served, revenue received, amount of certain commodities used and the amount of each on hand at the end of December, 1942.

C. General Ration Order No. 3, January 4, 1943: This order establishes the Ration Banking System.

D. General Ration Order No. 4, February 11, 1943: "Except as otherwise provided therein, all ration orders and regulations shall be effective throughout the 48 states of the United States and the District of Columbia."

E. General Ration Order No. 5, February 18, 1943: The purpose of this order is to accumulate all rules which institutional users follow in getting supplies of rationed foods.

F. General Ration Order No. 6, February 17, 1943: This order provides the procedure for the acquisition and use of War Ration Book 2.

G. General Ration Order No. 7, March 5, 1943: This order provides an alternative procedure by which ration stamps and coupons may be surrendered and deposited.

H. General Ration Order No. 8, March 25, 1943: This order provides general prohibitions and penalties for violation in the rationing program.

II. Ration Orders: Actual rationing is effected by the following Ration Orders:

A. Ration Order No. 3, April 24, 1943. This order covers the rationing of sugar for consumers, institutional and industrial users and retailers and wholesalers.

B. Ration Order No. 12, November 20, 1942: This order covers the rationing of coffee to consumers, retailers and wholesalers, institutional and industrial users.

C. Ration Order No. 13, February 9, 1943: This order covers the rationing of processed foods to consumers, wholesalers, retailers, industrial and institutional users on the point system.

D. Ration Order No. 16, March 20, 1943: This order covers the rationing of Meats, fats, fish and cheeses to consumers, wholesalers, retailers, industrial and institutional users on the point system.

III. RESTRICTION ORDERS:

A. Restriction Order No. 1, October 1, 1942: (now administered by the Food Distribution Administration): Restricts slaughterers in their deliveries of meat to specified quotas.

B. Restriction Order No. 3, February 18, 1943: The transfer of canned meat and canned fish is limited to persons and governmental agencies specified in the Order (Expired March 29, 1943).

C. Restriction Order No. 5, March 21, 1943: The sale to all customers, during the week preceding rationing, of fats and oils is prohibited. (Order expired March 29, 1943).

EXHIBIT U.

February 12, 1943

Agreement as to the Responsibilities
Of the Department of Agriculture and the
Office of Price Administration in the Rationing of Foods

Under the provisions of Executive Order No. 9280 of December 5 the Secretary of Agriculture is directed to assume full responsibility for the control over the Nation's food program, including the determination of the time, extent, and other conditions of civilian rationing. This clearly makes the Secretary of Agriculture responsible for broad policy determinations in connection with food rationing.

The wording of the Executive Order also clearly indicates that both the OPA and the Department shall participate in the administration of the rationing of foods to civilians. It is therefore important that close and harmonious staff interrelationships exist at all levels in both agencies. Without this joint participation, any specific delineation of responsibilities becomes meaningless and effective coordination of effort is impossible.

In order to effect a working arrangement between the two agencies, the following division of responsibilities is established.

1. Determination of available supplies for civilian and other requirements. The responsibility for determining supplies of foods available for civilian consumption and for allocating supplies accordingly is recognized as the exclusive responsibility of the Department of Agriculture. The OPA shall refer to the Department cases in which the categories of civilian and non-civilian users have not been defined or taken into account. At any time the Office of Price Administration may call to the attention of the Department factors affecting the preparation of civilian supply and requirements estimates.

The Department should indicate the available supplies of foods to the OPA in lump sum terms and valid for as long a period as practicable, consistent with the Department's responsibility for making seasonal and other adjustments in the flow of food supplies.

However, when point rationing is involved, the Department shall break down the total figure in sufficient detail to enable the OPA to establish point values for each commodity or item. In establishing point values the OPA shall keep the Department currently advised of tentative decisions and the Department in turn shall keep the OPA informed of any proposed changes in civilian supply estimates.

OPA shall be responsible for determining the length of time through which specified rationing coupons will be valid.

2. Determination of needs for civilian rationing. The Department of Agriculture shall determine whether the limitation upon foods for civilian use shall be effected through civilian rationing or through some other method of control of distribution, including the allocation of food to dealers. If allocation is determined upon, the Department shall consult with the OPA as to the possible necessity for consumer rationing growing out of ensuing shortages. Before the Secretary of Agriculture decides upon a consumer rationing program, the OPA shall be consulted to determine whether allocation is a possible alternative to achieve the desired result and as to the administrative feasibility of rationing the commodity. Mutual consideration will be given to the matter of timing with other programs as well as the work load of the ration boards.

3. Time and extent of rationing. Responsibility for the determination of the approximate effective date of rationing shall rest with the Department of Agriculture. The specific date, however, shall be fixed by the OPA in accordance with printing and other administrative requirements. The extent of rationing shall include the determination of geographical areas to be covered and the number and kinds of commodities included in the program. These determinations shall be made by the Department after consultation with the OPA as to the administrative considerations involved.

4. General method and other conditions of rationing. The OPA, after consultation with the Department, shall take the initiative and have responsibility for the development of the best methods of civilian rationing. The methods to be adopted shall be submitted to the Department for its approval.

When a rationing program has been undertaken and it develops that available supplies for civilian consumption will be less than originally contemplated, the OPA shall consult with the Department of Agriculture as to the most appropriate method for meeting the shortage, including such matters as the amounts of food available for further food processing as against direct civilian rationing.

With respect to differential rations and eligibility classifications, the Department shall make suggestions to the OPA concerning the administrative policies which are incorporated by the OPA in its rules and regulations. The approximate percentage or amount of food to be made available for specified categories of users developed by the OPA in accordance with the above policies shall be submitted to the Department for its approval prior to their official announcements.

5. Extent of authority of OPA and Agriculture at various levels of distribution. The OPA shall be responsible for and have such authority in the field of civilian rationing as may be necessary to:

a. Make certain that all uses and transfer of food allotted for civilian use are properly accounted for.

b. Require reports from any person with respect to compliance with OPA regulations or with respect to the movement of civilian food supplies.

c. Hear and adjust complaints and appeals arising from OPA orders and regulations.

d. Enforce all rules and regulations issued by OPA.

e. The Department shall have complete responsibility for the determination of overall allocations for civilian use and for determining individual processor quotas. The OPA shall have responsibility for directing the flow of rationed commodities within such quotas and allocations from the time the commodity is placed in a form ready for distribution by the processor.

6. Rationing techniques and procedures. The primary responsibility for determining rationing techniques and procedures shall rest upon the OPA. The OPA shall take the initiative in the development of all the forms and instructions required by rationing programs and shall be responsible for the clearance of such forms with the Bureau of the Budget.

7. Industry relations. In order to accomplish the purposes set forth in this memorandum, the OPA may maintain contacts with representatives of processors, wholesalers, and other industry representatives, but shall, so far as practicable, coordinate its procedure for maintenance of industry relationships with that of the Department.

8. Data collection. All inventory and other reports on inventories and movements of food supplies from the wholesaler, retailer, or other intermediate distributors shall be made to the OPA. All information bearing on civilian food distribution relevant to rationing collected by either agency shall be made available freely to the other.

9. Public information on rationing programs. Announcements as to the need for and inauguration of rationing programs shall be made by the Secretary.

The OPA shall have responsibility for developing and transmitting to the public through the press or radio such information regarding rationing programs as may be required for their successful initiation and administration. The OPA and the Secretary agree that, as far as possible, information relating to rationing and other programs dealing with the distribution of foods to civilians shall not be disseminated by one agency prior to its being approved by the other agency.

A continuous effort should be made on the part of each agency to keep the other informed regarding the policies governing publicity and public relations matters.

10. Enforcement, including compliance and enforcement reports. The OPA shall have full responsibility for the enforcement of food rationing and shall recommend to the Department adoption of any procedures or measures which will assist in the enforcement process. In addition, the OPA may require the submission of reports by retailers, wholesalers, and processors which are essential to the enforcement process.

Administrative Arrangements to Facilitate Inter-Agency Corporation

1. Food Rationing Policy Committee. As a means of expediting the consideration of matters mutually concerning both agencies, there shall be established a Food Rationing Policy Committee consisting of representatives of the Food Distribution and Food Production Administrations of the Department and the Rationing Department of OPA. It is understood that this committee shall not concern itself with matters clearly delegated to the respective agencies in the foregoing portion of this agreement, but rather shall direct its attention to those problems areas where concern is mutual and joint consideration of policy matters in required. More specifically, the committee would consider: (a) handling of publicity, (b) desirability and feasibility of differential rations, (c) effective handling of industry relations, and (d) other coordinate matters.

For the Department

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Claude R. Wickard, Secretary of Agriculture

For the Office of Price Administration

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Prentiss E. Brown, Administrator

Date: _____